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असाधारण

EXTRAORDINARY

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PART II — Section 2

प्राधिकार से प्रकाशित

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

LOK SABHA

The following Bill was introduced in Lok Sabha on 11th March, 2013:—

BILL NO. 31 OF 2013

A Bill to provide for establishment of an Authority for prevention, control, eradication and management of pests and diseases of plants and animals and unwanted organisms for ensuring agricultural biosecurity and to meet international obligations of India for facilitating imports and exports of plants, plant products, animals, animal products, aquatic organisms and regulation of agriculturally important micro organisms and for matters connected therewith or incidental thereto.

WHEREAS the International Plants Protection Convention came into force on the 3rd April, 1952 which provides for the purpose of securing common and effective action to prevent the spread and introduction of pests of plants and plants products and to promote appropriate measure for their control and India signed the said Convention on the 30th April, 1952 and ratified the same on the 9th June, 1952.

AND WHEREAS an Office of International des Epizooties has been created under International Agreement for the creation of An Office of International des Epizooties in Paris and the main object of the said office is to promote and co-ordinate in experimental and other research work concerning the pathology or prophylaxis of contagious diseases of live-stock for which international collaboration is deemed desirable and India, as a member thereof, is required to take the measures to fulfil the said objects.

AND WHEREAS, India, having ratified the said conventions, being the member of the said office has to make provision for giving effect thereto and matters connected therewith and incidental thereto.

BE it enacted by Parliament in the Sixty-fourth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

Short title, extent and commencement.

1. (1) This Act may be called the Agricultural Biosecurity Act, 2013.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint:

Provided that different dates may be appointed for different provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) "appointed day" means the date with effect from which the Authority is established by notification under sub-section (1) of section 7;

(b) "animal" shall have the meaning assigned to it in clause (a) of section 2 of the Prevention and Control of Infectious and Contagious Diseases in Animals Act, 2009;

27 of 2009.

(c) "animal product" means,—

(i) all kinds of meat and meat products including fresh, chilled and frozen meat, tissue or organs of poultry, pig, sheep and goat;

(ii) egg and egg powder, milk and milk products of all kinds;

(iii) embryos, ova and semen of bovine, ovine and caprine;

(iv) pet food products of animal origin; and

(v) any other animal product which may be specified by Central Government, by notification, in the Official Gazette;

(d) "Authority" means the Agricultural Biosecurity Authority of India constituted under sub-section (1) of section 7;

(e) "Beneficial organism" means any organism, including fungi, bacteria, viruses, virus-like organisms or invertebrate animals, utilised specifically for—

(i) the control of a pest;

(ii) pollination;

(iii) the production of commercially valuable agricultural products;

or

(iv) any other purposes beneficial to agricultural production and ensuring agricultural biosecurity;

(f) "Biosecurity" means protection from the adverse effect which any organism has or may have on—

(i) an organism excluding human organism; or

(ii) other organisms such as plants, animals, terrestrial or aquatic; or

(iii) the environment or part of environment; or

(iv) agricultural activities, fishing or pearling activities, or commercial activities relating to them which are being carried on, or intended to be carried on in the whole of the country or any part thereof;

(g) "Biosecurity emergency" means any outbreak or occurrence in the country of an organism (being an organism not previously known to be established) that has the potential to cause significant loss to the biosecurity of the country;

(h) "Certificate" means an official document issued under this Act for quarantine purpose which attests to the sanitary and phytosanitary status of any consignment affected by this Act, or rules and regulations made thereunder;

(i) "Containment" means the application of sanitary or phytosanitary measures in and around an infested area to prevent the spread of a pest or disease of plants and animals;

(j) "Controlled area" means any area declared as such by the Authority under section 25;

(k) "Conveyance" means any vessel, hovercraft, aircraft, train, truck, car, cart, cargo container, animal or any other device or mode of transport whereby plants, animals, plant products or animal products or other objects may be moved;

(l) "Designated Officer" means an officer of the Authority designated as such under sub-section (1) of section 53 and includes the person appointed to act as Designated Officer under sub-section (2) of that section;

(m) "Director General" means Director General of the Authority;

(n) "environment" includes—

(i) ecosystems and their constituent parts, including people and their communities;

(ii) all natural and physical resources;

(iii) amenity values (environmental or landscape benefit of trees irrespective of their commercial value as a timber crop); and

(iv) the aesthetic, cultural, economic, and social conditions that affect or are affected by any matter referred to in sub-clauses (i) to (iii);

(o) "eradication" means application of sanitary or phytosanitary measures to eliminate pests and diseases from an area;

(p) "export" with its grammatical variation and cognate expressions, means taking out of India to a place outside India;

(q) "import" with its grammatical variations and cognate expressions means bringing into India from a place outside India;

(r) "import permit" means an import permit referred to in clause (i) of section 3;

(s) "infectious or contagious disorders" includes tick-pest, glanders, farcy, scabies and any other parasite, disease or disorder which may be specified by the Central Government by notification;

(t) "integrated pest management" means management of pests by using eco-friendly methods;

(u) "live-stock" includes cattle, horses, canine, camels, sheep, pigs, goat and poultry and any other animal as may be specified by the Central Government by notification;

(v) "member" means a member of the Authority and includes the Director General;

(w) "notification" means notification published in the Official Gazette;

(x) "object" means any new organism, or micro-organism and genetic structure capable of replicating, and includes any other object other than plants, plant products, animals and animal products which is capable of carrying or harbouring a pest, including soil and packaging;

(y) "organism" means a living thing that can cause a disease and includes,—

(i) micro-organism;

(ii) an entity notified by the Central Government in the Official Gazette, to be an organism for the purpose of this Act;

(iii) a reproductive cell or developmental stage of an organism,

but does not include a human being or a part of human being or a genetic structure derived from a human being;

(z) "pest" means any species, strain or biotype of plant, animal, or pathogenic agent injurious to plants or animals or plant products or animal products;

(za) "pest risk analysis" means the process of evaluating biological or other scientific and economic evidence to determine requirement of the regulation of a pest and the strength of any sanitary or phytosanitary measure to be taken against it;

(zb) "phytosanitary or sanitary certificate" means the phytosanitary or sanitary certificate referred to in clause (ii) of section 3;

(zc) "phytosanitary or sanitary measure" means any measure taken under this Act, or rules or regulations made thereunder, or other administrative orders, instructions or guidelines, for the purpose of preventing the introduction or the spread of a quarantine pest;

(zd) "plant" means living plants and parts thereof, including seeds and propagules;

(ze) "plant products" mean any unmanufactured material of plant origin including grain, and those manufactured products which, by their nature or that of their processing, may create a risk for the introduction and spread of pests;

(zf) "post-entry quarantine" means quarantine measures applied to a consignment after import;

(zg) "prescribed" means prescribed by rules made under this Act;

(zh) "prohibition" means any sanitary and phytosanitary measure forbidding the import, or the export, or the movement of such pests, plants, animals, plant products or animal products or other objects as the Authority may specify by regulation;

(zi) "quarantine pest" means a pest of potential economic importance to the area endangered thereby and not yet present there, or present but not widely distributed and being officially controlled by the Authority;

(zj) "regulation" means a regulation made by the Authority under this Act;

(zk) "research institute" means any institution conducting research on plants, plant products, animals, animal products, pests or diseases and includes, agricultural universities and research laboratories under the Indian Council of

Agricultural Research, Indian Council of Forestry Research and Education, Indian Council of Medical Research, Council of Scientific and Industrial Research and private sector and academic institutions;

(zl) "restricted place" means any place that has been declared by a Designated Officer to be a restricted place under this Act;

(zm) "safer and effective pesticide" means pesticide safe to the human beings and animals and found effective against the pests for which it is recommended for control under any law for the time being in force;

(zn) "soil" means any medium, including earth, water, compost or clay, which is capable of supporting plant life, or of harbouring or transmitting pests;

(zo) "transgenic material" means any plant or animal origin material transformed by genetic engineering and in particular by adding a foreign gene using modern biotechnology;

(zp) "treatment" means an officially authorised procedure for removing or rendering infertile the pests.

3. No person shall import into India any plant; animal or plant product or animal product or any other object in contravention of any notification issued by the Authority specifying the plant, animal, plant product or animal product or other object, or in contravention of the guidelines issued by the Authority, the import of which shall be prohibited except in accordance with,—

Prohibition of import.

(i) an import permit issued by the Designated Officer in such form, manner and on payment of such fee and subject to such conditions and exemptions as may be specified by regulations; and

(ii) the sanitary or phytosanitary certificate issued by such authority of the country of origin and the country of re-export of such imports as may be specified by regulations.

4. No person shall export any plant, animal, plant product or animal product or other object except in accordance with the sanitary or phytosanitary certificate issued by the Designated Officer in such manner and on payment of such fee as may be specified by regulations:

Prohibition of export.

Provided that no such certificate shall be necessary where the country of destination does not require it.

5. Except as provided under this Act, or rules and regulations made thereunder, no person shall possess, move, grow, raise, culture, breed or produce any plant, animal and plant product or animal product or any other object, as the case may be, if he has reasons to believe that it is carrying or harbouring, or may carry or harbour, a quarantine pest, or that it is or could be infested or infected with a quarantine pest.

Domestic quarantine.

6. Where a person becomes aware of the existence of a pest or disease of plant or animal which the person suspects to be a quarantine pest or disease in an area where such pest or disease has not previously been known to exist, it shall be duty of that person to inform immediately the existence of such pest or disease.

Duty to inform.

CHAPTER II

AGRICULTURAL BIOSECURITY AUTHORITY OF INDIA

7. (1) With effect from the appointed day, the Central Government shall, by notification, constitute an Authority to be called the Agricultural Biosecurity Authority of India.

Constitution and incorporation of Authority.

(2) The Authority shall be a body corporate by the name aforesaid, having perpetual succession and a common seal, with power, subject to the provisions of this Act, to acquire, hold and dispose of property, both movable and immovable, and to contract, and shall by the said name sue or be sued.

(3) The head office of the Authority shall be at Faridabad.

Composition of
Authority.

8. The Authority shall consist of—

(a) a Director General to be appointed by the Central Government;

(b) two Deputy Director Generals to be appointed by the Central Government from amongst the persons having special knowledge and experience of not less than ten years in plant and animal sciences—Members;

(c) two members to be appointed by the Central Government, from amongst persons having special knowledge and experience of not less than ten years in plant and animal quarantine, or in plant and animal protection, or in any other discipline pertaining to plant and animal protection, which, in the opinion of the Central Government, is related to the functions of the Authority—Members;

(d) three members to be appointed by the Central Government by rotation in the alphabetical order to represent the States and the Union territories:

Provided that an appointment under this clause shall be made on the recommendation of the Government of the State, or as the case may be, the Union territory concerned.

(e) one representative of the Ministry or Department dealing with the Agriculture and Co-operation, not below the rank of Joint Secretary—Member;

(f) one representative of the Ministry or Department dealing with the Animal Husbandary, Dairying and Fisheries, not below the rank of Joint Secretary—Member;

(g) one representative of the Ministry or Department dealing with the Commerce, not below the rank of Joint Secretary—Member;

(h) one representative of the Ministry or Department dealing with the Environment and Forest, not below the rank of Joint Secretary—Member;

(i) one representative from the Indian Council of Agricultural Research, to be nominated by the Director General, Indian Council of Agricultural Research, not below the rank of Joint Secretary—Member;

(j) one representative from the Indian Council of Forestry Research and Education, to be nominated by the Director General, Indian Council of Forestry Research and Education, not below the rank of Joint Secretary—Member;

(k) one representative of the Ministry or Department dealing with health or from Food Safety and Standards Authority of India, not below the rank of Joint Secretary—Member;

(l) the Member (Customs) of Central Board of Excise and Customs, Department of Revenue, Ministry of Finance—Member;

(m) one representative from the Ministry or Department dealing with Biotechnology, not below the rank of Joint Secretary—Member;

(n) one representative to be nominated by the Director General, Council of Scientific and Industrial Research not below the rank of Joint Secretary—Member;

(o) one representative from the National Disaster Management Authority, not below the rank of Joint Secretary—Member;

(p) one representative from the Defence Research and Development Organisation, not below the rank of Joint Secretary—Member;

(q) one representative of the Ministry or Department dealing with legal or legislative affairs, not below the rank of Joint Secretary—Member.

9. The Director General of the Authority shall be appointed by the Central Government from amongst persons who have special knowledge and professional experience of such years as may be prescribed in plant and animal quarantine or in plant and animal protection or any other discipline pertaining to plant and animal protection or from amongst the persons from the administration who have been associated with the subject:

Qualification for appointment of Director General.

Provided that a person who is in the service of Government shall not be appointed as Director General unless he is holding or has held the post not below the rank of Additional Secretary to the Government of India.

10. The Director General shall be the Chief Executive Officer of the Authority and shall have the general superintendence and directions in the conduct of the affairs of the Authority and shall, in addition to presiding over the meetings of the Authority, exercise and discharge such powers and functions of the Authority as may be prescribed.

Powers of Director General.

11. (1) The term of office and conditions of service of, and fee and allowances payable to, the Director General, Deputy Director General and the other members (other than ex officio members) shall be such as may be prescribed.

Conditions of service of Director General and Members.

(2) The Director General, Deputy Director General or any other member ceasing to hold office as such, shall not accept any commercial employment, for a period of two years from the date he ceases to hold such office without the approval of the Central Government.

Explanation.— For the purposes of this section, "commercial employment" means employment in any capacity under, or agency of, a person engaged in trading, commercial, industrial or financial business in plants, animals, plant products or animal products, aquatic organisms and micro-organisms or other object and includes also a director of a company or partner of a firm and it also includes setting up practice either independently or as partner of a firm or as an adviser or a consultant.

12. (1) The Authority shall meet at such times and places, and shall observe such procedures in regard to the transaction of business at its meetings, including the quorum, as may be provided by regulations.

Meetings of Authority.

(2) The Director General or, if for any reason he is unable to attend any meeting of the Authority, any other member chosen by the members present from amongst themselves at the meeting shall preside at the meeting.

(3) All questions which come up before the Authority in the meeting shall be decided by a majority of votes of the members present and voting, and, in the event of an equality of votes, the Director General, or in his absence, the person presiding the meeting, shall have a second or casting vote.

(4) The Authority may make regulations for the transaction of business at its meetings.

13. No act or proceeding of the Authority shall be invalid merely for reason of—

Vacancies, etc., not to invalidate proceedings of Authority.

(a) any vacancy in, or any defect in the constitution of, the Authority; or

(b) any defect in the appointment of a person acting as a member of the Authority;

(c) any irregularity in the procedure of the Authority not affecting the merits of the case.

14. (1) Notwithstanding anything contained in section 11, the Central Government may, by order, remove from office the Director General, Deputy Director General or any member referred to in clause (c) of section 8, if the Director General or such other member—

Removal of Director General, Deputy Director General and members.

(a) has been adjudged an insolvent; or

(b) has been convicted of an offence, which in the opinion of the Central Government, involves moral turpitude;

(c) has become physically and mentally incapable of acting as a member; or

(d) has acquired such financial or other interests as are likely to affect prejudicially his functions as a member; or

(e) has so abused his position as to render his continuance in office prejudicial to the public interest.

(2) No member shall be removed under clauses (d) and (e) of sub-section (1) unless he has been given a reasonable opportunity of being heard in the matter.

Secretary of Authority and his powers.

15. (1) The Central Government shall appoint a Secretary to the Authority who shall exercise such powers and perform such duties as may be prescribed or as may be delegated to him by the Director General.

(2) The Secretary shall be entitled to such salary and allowances and shall be subject to such conditions of service in respect of leave, pension, provident fund and such other matters as may, from time to time, be fixed by the Central Government.

Officers and employees of Authority.

16. Subject to such control and restrictions as may be prescribed, the Authority may appoint such other officers and employees, as may be necessary, for the efficient performance of its functions and the method of appointment, the scale of pay and allowances and other conditions of service of such other officers and employees of the Authority shall be such as may be provided by the Authority by regulations.

Director, etc., not to undertake any other work.

17. The Director General, Deputy Director General, other members, the Secretary and other employees of the Authority shall not undertake any work unconnected with their duties under this Act except with the permission of the Central Government.

Appointment of experts.

18. The Authority may engage, in such manner and on such remuneration or fee as may be specified by regulations such number of experts and professionals of integrity and outstanding ability, having special knowledge of, and experience in, plant pests and diseases and animal diseases or such other disciplines related to agricultural biosecurity as it deems necessary to assist the Authority in the discharge of its functions under this Act.

Committees of Authority.

19. (1) The Authority may appoint such committees as may be necessary for the efficient discharge of its duties and performance of its functions under this Act.

(2) The Authority shall have the power to co-opt as members of any committee appointed under sub-section (1) such number of persons, who are not members of the Authority, as it may think fit and the persons so co-opted shall have the right to attend the meetings of the committee and take part in its proceedings but shall not have the right to vote.

(3) The persons co-opted as members of a committee under sub-section (2) shall be entitled to receive such allowances for attending meetings of the committee as may be fixed by the Authority.

CHAPTER III

TRANSFER OF ASSETS, LIABILITIES, ETC., OF AUTHORITY

Transfer and vesting in Authority undertakings of Plant Animal Quarantine Stations, etc.

20. (1) On and from the appointed day, there shall be transferred to, and vest in, the Authority constituted under sub-section (1) of section 7, the undertakings of the existing Plant Quarantine Stations, Central Integrated Pest Management Centres, Locust Warning Organisation, Secretariat of Central Insecticide Board and Registration Committee, any other laboratories under the Directorate of Plant Protection, Quarantine and Storage, Government of India and Animal Quarantine Stations and connected laboratories hereinafter referred to as "the undertakings".

(2) The undertakings which are transferred to, and which vest in the Authority under sub-section (1) shall be deemed to include all assets, rights, powers, authorities and privileges and all property movable and immovable, real or personal, corporeal or incorporeal, present or contingent, of whatever nature and wheresoever situate, including lands, buildings, machinery, equipments, works, workshops, cash balances, capital, reserves, reserve funds, investments, tenancies, leases and book debts and all other rights and interests arising out of such property as were immediately before the appointed day in the ownership, possession or power of the undertakings, in relation to their undertakings, whether within or outside India, all books of account and documents relating thereto and shall also be deemed to include all borrowings, liabilities and obligations of whatever kind then subsisting of the undertakings in relation to their undertakings.

21. (1) All contracts, agreements and working arrangements subsisting immediately before the appointed day and affecting the undertakings, shall, in so far as they relate to the undertakings cease to have effect or be enforceable against the undertakings and shall be of as full force and effect against or in favour of the Authority in which the undertakings have vested by virtue of this Act and enforceable as fully and effectually as if, instead of the undertakings the Authority had been named therein or had been a party thereto.

General effect of vesting of undertaking in Authority.

(2) Any proceeding, suit or cause of action pending or existing immediately before the appointed day by or against the undertakings in relation to their undertakings may, as from that day, be continued and enforced by or against the Authority in which they have vested by virtue of this Act, as it might have been enforced by or against the undertakings if this Act had not been passed, and shall cease to be enforceable by or against the undertakings.

22. (1) On the establishment of the Authority, it shall be lawful for the Central Government to transfer to the Authority, by order and with effect from such date or dates as may be specified in the order, any officer or other employee holding office as such in the Directorate of Plant Protection Quarantine and Storage and Animal Quarantine Stations under the Central Government immediately before the date on which the Authority is established:

Special Provision for transfer of employees to Authority.

Provided that the scale of pay of the post in the Authority to which such officer or other employee is transferred shall not be lower than the scale of pay of the post he was holding immediately before such transfer and the other terms and conditions of service (including pension, leave, provident fund and medical benefits) of the post to which he is transferred shall not be less favourable than the terms and conditions of service in relation to the post held by him immediately before such transfer.

(2) An order under sub-section (1) may be made so as to have retrospective effect from a date not earlier than the date of the commencement of this Act.

(3) Before any order is issued under sub-section (1), all officers and employees of the aforesaid Directorate of Plant Protection Quarantine and Storage and Animal Quarantine Stations shall be given an option to express, in such form as may be prescribed, and within such time as may be specified in that behalf by the Central Government, their willingness or otherwise to become employees of the Authority and such option once exercised shall be final:

Provided that no order under sub-section (1) shall be made in relation to any officer or other employee of the Directorate of Plant Protection Quarantine and Storage and Animal Quarantine Stations who has intimated his intention of not becoming an employee of the Authority within the time specified in that behalf:

Provided further that such of the officers and employees of the Directorate of Plant Protection Quarantine and Storage and Animal Quarantine Stations who do not express, within the time specified in that behalf, their intention of becoming the

employees of the Authority, shall be dealt with in the same manner and in accordance with the same laws and standing orders as would have applied immediately before the commencement of this Act to the employees of the Directorate of Plant Protection Quarantine and Storage and Animal Quarantine Stations in the event of the reduction of the strength of the officers and employees of the Directorate of Plant Protection Quarantine and Storage and Animal Quarantine Stations.

(4) An officer or other employee transferred by an order made under sub-section (1) shall, on and from the date of transfer, cease to be an employee of the Directorate of Plant Protection Quarantine and Storage and Animal Quarantine Stations and become an officer or other employee of the Authority with such designation as the Authority may determine and shall, subject to the provisions of the proviso to sub-section (1), be governed by the regulations made by the Authority under this Act in respect of remuneration and other conditions of service (including pension, leave, provident fund and medical benefits) and shall continue to be an officer or other employee of the Authority unless and until his employment is duly terminated by the Authority:

Provided that till such time as the regulations referred to above governing the conditions of service of its officers or other employees are framed by the Authority, the relevant laws and standing orders applicable to the officers and employees of the Directorate of Plant Protection Quarantine and Storage and Animal Quarantine Stations shall continue to be applicable to them.

(5) If a question arises whether the terms and conditions of service specified in the regulations framed by the Authority in respect of any matter, including remuneration, pension, leave, provident fund and medical benefits, are less favourable than those attached to the post held by an officer or other employee immediately before his transfer to the Authority, the decision of the Central Government in the matter shall be final.

CHAPTER IV

POWERS AND FUNCTIONS OF AUTHORITY

Functions of
Authority.

23. The functions of the Authority shall be to—

(a) prevent the introduction of quarantine pests in India from outside the country by regulating the import of plants, animals and plant products or animal products and other objects;

(b) regulate the export of plants, animals, plant products or animal products and other objects, to meet the importing country's requirements in accordance with international agreements, and to discharge such obligations under those international agreements;

(c) declare, by notification, any place to be a controlled area under section 25;

(d) regulate the spread of pests and diseases of plants and animals from one State to another;

(e) regulate the introduction of new or beneficial organisms into the country;

(f) implement such post-entry quarantine measures wherever necessary, either by itself or through research institutes, or jointly with such research institutes, as may be provided by regulations;

(g) undertake pest risk analysis;

(h) undertake regular review and revision with a view to update and harmonise sanitary or phytosanitary measures;

(i) undertake surveys and surveillance of pests and diseases of plants and animals in India;

(j) interact with international, regional or national plant protection organisations;

(k) interact with research institutes and State Governments on matters relating to plant and animal protection and quarantine;

(l) provide such technical guidance and assistance as it considers necessary to agriculture, horticulture, animal husbandry and fisheries departments of State Governments and other statutory bodies;

(m) arrange training programmes and hold workshops, seminars and conferences periodically to review status of pests and pathogens, and to spread awareness on plant and animal quarantine through mass media;

(n) frame guidelines for the import and export of plants, animals, plant products or animal products and other objects, whether for trade or research;

(o) regulate the import of transgenic materials with respect to sanitary and phytosanitary matters;

(p) establish plant and animal quarantine stations, pest management centres or other units at such places as may be deemed necessary;

(q) promote integrated pest management;

(r) watch and control locusts in such areas as the Central Government may, by notification, specify;

(s) take steps to ensure availability of safer and effective pesticides and their quality control;

(t) contribute towards development of human resource in plant and animal protection technology;

(u) advise and assist the Central Government on all matters including international obligations related to plant and animal protection;

(v) establish and maintain diagnostic laboratories related to pests and diseases of plants and animals;

(w) charge such fees for the services provided under this Act, as may be specified by regulations;

(x) recommend to the Central Government to issue directions to the State Governments for the purpose of enforcing obligations under international agreements;

(y) undertake such other activities as may be prescribed.

24. The Authority may declare, by notification, any pest to be a quarantine pest.

Declaration of quarantine pests.

25. Where the Authority, on information received from the State Government or any other information obtained *suo motu*, suspects or determines that an area is infested or infected with a quarantine pest, and is of the opinion that the quarantine pest could spread, the Authority may by notification declare that area to be a controlled area.

Controlled areas.

26. (1) Where the information has been received by the Authority from any source other than the State Government, and the Authority has reason to believe that an area is infested or infected with a quarantine pest, and is of the opinion that the quarantine pest could spread, the Authority shall forward such information to the

Action by Authority on report of State Government.

State Government requesting the State Government to send to the Authority a detailed report on the said information within a period stipulated by the Authority, or within such extended time as the Authority may deem fit in consultation with the State Government, before issuance of the declaration under section 25.

(2) Where the concerned State Government fails to take measures in a controlled area declared under section 25, then, it shall be lawful for the Authority to take necessary steps for eradication, containment or prevention of spread of the quarantine pest in such controlled area and such State Government shall reimburse the Authority the costs incurred by it for such purpose:

Provided that the Central Government may exempt the concerned State Government from whole or part of the reimbursement of the costs, if the concerned State Government gives reasons to the satisfaction of the Central Government for such exemption and exempted costs shall be reimbursed by the Central Government to the Authority.

(3) Where an area has been declared as controlled area under section 25 that area shall continue to be the controlled area until the Authority, by notification, declares that the controlled area is no longer infested or infected with quarantine pest.

Control
measures and
their
implementation.

27. (1) Where an area is notified to be a controlled area under section 25, the Authority shall communicate to the concerned State Government the quarantine measures which the State Government may implement.

(2) In particular, and without prejudice to the generality of the foregoing, such quarantine measures include the following matters, namely:—

(a) treatment or disposal of plants, plant products, animals, animal products or other objects, whether infested or infected or not, as well as treatment of conveyances in order to limit the spread of the quarantine pest and infected plants, plant products, animals and animal products;

(b) prohibition, restriction or control on removal of any plant, plant product, animal, animal product or other object from a controlled area to any other part of India;

(c) stipulation of the period within which it shall not be lawful to plant or replant with any particular plant, the whole or any portion of such controlled area;

(d) any other measure which the Authority may communicate.

(3) The Designated Officer and the State Government through its agencies shall jointly implement the quarantine measures referred to in sub-sections (1) and (2) and they shall also co-ordinate surveys, reports and actions in case of new outbreak of pests or during eradication campaign.

Prohibition on
removal of
plants, animals,
plant products or
animal products
or other objects,
or pests under
quarantine.

28. No plant, animal, plant product or animal product or other object or pest in the area where quarantine measure has been implemented under this Act, shall be removed from that area or from a quarantine station situated in that area, except with the approval in writing of the Designated Officer.

Recovery of
expenses from
State
Government.

29. Where the State Government fails to repay the costs of any measure taken under this Chapter, such costs shall be recoverable from the State Government in the manner provided by the Code of Criminal Procedure, 1973, for the recovery of fines imposed by a Court, as if such costs were a fine imposed by a Court.

30. The Authority may accredit any laboratory, or any quarantine facility, subject to such conditions and to carry out such activities as may be specified by regulation.

Accredited laboratories and accredited quarantine facilities.

31. The Authority may, by general or special order in writing, delegate to the Director General or any other member, or to any officer of the Authority, subject to such conditions and limitations, if any, as may be specified in the order, such of its powers and functions under this Act (except the powers under section 76) as it may deem necessary.

Delegation of powers.

32. All orders and decisions of the Authority shall be authenticated by the signature of the Director General, or any other member authorised by the Authority in this behalf, and all other instruments executed by the Authority shall be authenticated by the signature of an officer of the Authority authorised by it in this behalf.

Authentication of orders and other instruments of Authority.

33. Subject to the provisions of section 34, the Authority shall be competent to enter into and perform any contract necessary for the discharge of its functions under this Act.

Contracts by Authority.

34. (1) Every contract shall, on behalf of the Authority, be made by the Director General or such other member, or such officer of the Authority as may be generally or specially empowered in this behalf by the Authority, and such contracts or class of contracts shall be sealed with the common seal of the Authority:

Mode of Executing Contracts on behalf of Authority.

Provided that no contract exceeding such value or amount, as the Central Government may, from time to time, by order, fix in this behalf, shall be made unless it has been previously approved by the Authority:

Provided further that no contract for the acquisition or sale of immovable property or for the lease of any such property for a term exceeding thirty years, and no other contract exceeding such value or amount as the Central Government may, from time to time, by order fix in this behalf, shall be made unless it has been previously approved by the Central Government.

(2) Subject to the provisions of sub-section (1), the form and manner in which any contract shall be made under this Act, shall be such as may be specified by regulations.

(3) No contract, which is not in accordance with the provisions of this Act and the regulations made thereunder, shall be binding on the Authority.

35. (1) The Authority may, with the prior consent of the Central Government or in accordance with the terms of any general or special authority given to it by the Central Government, borrow money from any source by the issue of bonds, debentures or such other instruments as it may deem fit for discharging all or any of its functions under this Act.

Borrowing powers of Authority.

(2) The Central Government may guarantee, in such manner as it thinks fit, the repayment of the principal and the payment of interest thereon with respect to the loans borrowed by the Authority under sub-section (1).

(3) Subject to such limits as the Central Government may, from time to time lay down, the Authority may borrow temporarily by way of overdraft or otherwise such amount as it may require for discharging its functions under this Act.

36. The Authority may, for the discharge of its functions under section 23 issue such directions from time to time to importers and exporters of plant, animal, plant product or animal product or other object, as it may consider necessary.

Power of Authority to issue directions.

CHAPTER V

OBLIGATIONS UNDER INTERNATIONAL AGREEMENTS

Discharge of obligations under International Agreements.

37. The Authority shall—

(a) act as the National Plant Protection Organisation to discharge obligations under the International Plant Protection Convention, and on request by any international, regional or other National Plant Protection Organisation, provide it free of charge or on reciprocal basis, such information as the Authority may have in regard to import and export of, and technical requirements for, plants, plant products and other objects;

(b) act as the National Organisation to discharge obligations under the Office International des Epizooties, and on request by any regional or national organisation, provide it free of charge or on reciprocal basis, such information as it may have in regard to import and export of, and technical requirement for, animals, animal products, marine products and other objects:

Provided that before providing any information under this section, approval of the Central Government shall be obtained.

Explanation.— For the purposes of this section the expressions,—

(i) "International Plant Protection Convention" means the International Plant Protection Convention, 1951 of which India is a member; and

(ii) "Office International des Epizooties (OIE)" means the Office International des Epizooties created through an international agreement of which India is a member.

CHAPTER VI

EMERGENCY ACTION

Declaration of biosecurity emergency.

38. (1) If the Authority is satisfied, on the information received by it that—

(a) there is likelihood of—

(i) an outbreak or occurrence in India of an organism, which is not previously known to be established in India and if it becomes established in India, it has the potential to cause significant loss to the biosecurity of the country; or

(ii) an organism, previously thought to be of restricted distribution or abundance in India, which has become so distributed and abundant in India or any part thereof that it has the potential to cause significant loss to the biosecurity; or

(iii) spreading of a pest beyond control by the application of the national pest management strategy for that pest; and

(b) it is in the public interest that action be taken immediately to manage, or eradicate the organism and such management or eradication is not effectively possible in normal course,

it may recommend the Central Government to declare a biosecurity emergency in respect of the whole of India or of such part of the territory thereof as may be specified in the recommendation.

(2) The Central Government, if it is satisfied, on the recommendation made under sub-section (1) and after consultation with such persons as it may deem reasonable, that such biosecurity emergency exists, may make declaration to that effect in respect of the whole of India or of such part of the territory thereof as may be specified in the declaration.

(3) A declaration made under sub-section (2) may be varied or revoked by subsequent declaration.

(4) The Central Government shall not issue a notification varying such proclamation unless the recommendations of the Authority are communicated to it.

(5) A declaration under sub-section (2) shall cease to have effect on the expiration of six months unless revoked earlier.

39. While the declaration of biosecurity emergency is in operation, then,—

(a) the Central Government may give all such directions to the Authority and require all such acts to be done or not to be done by the Authority as the Central Government may deem necessary for the purpose of managing or eradicating the organism in respect of which such biosecurity emergency is declared;

Effect of
declaration of
biosecurity
emergency.

(b) the Authority may take such measures and do all such acts and things which the Authority deems necessary for the purpose of managing or eradicating the organism in respect of which such biosecurity emergency is declared.

40. (1) The Authority may with the prior approval of the Central Government, at any time while a declaration of biosecurity emergency under sub-section (2) of section 38 is in force, by notification, make a scheme for the management or eradication of the organism in respect of which such emergency has been declared.

Biosecurity
emergency
scheme.

(2) The Central Government may, before giving approval under sub-section (1), consult such experts as it may deem fit as to the desirability of such scheme.

CHAPTER VII

APPEAL AND REVISION

41. Any person aggrieved by any order of the Designated Officer under this Act may within a period of thirty days from the date on which the said order is communicated to him appeal, in the such manner and on such payment of fees as may be prescribed, to the Central Government whose decision thereon shall be final:

Appeal.

Provided that the Central Government may entertain an appeal after the expiry of thirty days if it is satisfied that such person was prevented by sufficient cause from filing the appeal in time.

42. The Central Government may, at any time, call for and examine the record relating to any case on which the Designated Officer has made an order for the purpose of satisfying itself as to the legality or propriety of such order and make such order as it may deem fit:

Power of
revision.

Provided that no order under this section shall be made after the expiry of one year from the date of such decision:

Provided further that the Central Government shall not make any order against any person unless that person has had a reasonable opportunity of showing cause against the proposed order.

43. Any person aggrieved by a report of analysis of sample made under this Act or the rules and regulations made thereunder, may request the Designated Officer for re-analysis by a different laboratory of the Authority, or an accredited laboratory, whose report shall be final.

Re-analysis.

44. (1) Where any plant, animal, plant product or animal product or other object not confiscated is required to be sold for the realisation of the dues of the Authority, or otherwise under this Act, after ensuring that it does not pose biosecurity risk to the country, under this Act, the Authority shall, after the notice to the owner thereof, sell by public auction or by tender or with the consent of the owner in any other manner such plant, animal, plant product or animal product or other object.

Procedure for
sale of goods and
application of
sale proceeds.

(2) The proceeds of any such sale referred to in sub-section (1) shall be applied,—

(a) firstly to the payment of the expenses of the sale;

(b) next to the payment of the dues of the Authority in respect to the plant, animal, plant product or animal product or other object sold;

(c) next to the payment of the charges, if any, payable in respect of the plant, animal, plant product or animal product or other object sold, due to the person having the custody of such plant, animal, plant product or animal product or other object; and

(d) next to the payment of any amount due from the owner of the plant, animal, their product, or other object sold, to the Central Government if any such intimation has been received by the Authority, and the balance, if any, remains after such payment shall be paid to the said owner.

CHAPTER VIII

FINANCE, ACCOUNTS AND AUDIT

Grants by
Central
Government.

45. The Central Government may, after due appropriation made by Parliament by law in this behalf, make to the Authority grants and loans of such sums of money as the Central Government may think fit for being utilised for the purposes of this Act.

Constitution of
Agricultural
Biosecurity
Fund.

46. (1) There shall be constituted a Fund to be called the Agricultural Biosecurity Fund and there shall be credited thereto,—

(a) all grants and loans made by the Central Government under section 45;

(b) all grants, fees, penalties and charges received by the Authority under this Act;

(c) all sums received by the Authority from such other source as may be approved by the Central Government.

(2) The Agricultural Biosecurity Fund shall be applied,—

(A) for meeting—

(a) the cost of the measures taken under this Act, or rules and regulations made thereunder;

(b) the salaries, allowances and other remuneration, as the case may be, of the members of the Authority, members of committees, special invitees, officers and other employees of the Authority;

(c) the administrative expenses of the Authority and any other expenses authorised by or under this Act; and

(d) repayment of any loan under clauses (a) and (c) of sub-section (1).

(B) for the purpose of expanding existing facilities or services, or creating new facilities or services, or for the purpose of providing against any temporary decrease of revenue or increase of expenditures from transient causes or for purposes of replacement or for meeting expenditures arising from loss or damage from incidence of pest infestation or infection, or for meeting any liability arising out of any act or commission in the discharge of its functions under this Act.

(3) All moneys belonging to the fund shall be deposited in such banks or invested in such manner as may, subject to the approval of the Central Government, be decided by the Authority.

47. (1) The Authority shall maintain proper accounts and other relevant records, and prepare an annual statement of accounts including profit and loss account and balance sheet in such form as may be prescribed by the Central Government in consultation with the Comptroller and Auditor-General of India.

Accounts and
audit.

(2) The accounts of the Authority shall be audited annually by the Comptroller and Auditor-General of India and any expenditure incurred by him in connection with such audit shall be payable by the Authority to the Comptroller and Auditor-General of India.

(3) The Comptroller and Auditor-General of India, and any person appointed by him in connection with the audit of the accounts of the Authority, shall have the same rights, privileges and authority in connection with such audit as the Comptroller and Auditor-General of India has in connection with the audit of Government accounts and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers, and inspect any place under, or any office of, the Authority.

(4) The accounts of the Authority as certified by the Comptroller and Auditor-General of India, or any other person appointed by him in this behalf, together with the audit report thereon, shall be forwarded annually to the Central Government, and that Government shall cause the same to be laid before both Houses of Parliament.

48. (1) The Authority shall prepare once every year in such form and in such time as may be prescribed, an annual report giving a summary of its activities including information relating to proceedings and policies during the previous year and such report shall also contain annual accounts of the Authority.

Annual report
and its laying
before
Parliament.

(2) A copy of the report shall be forwarded to the Central Government and the Central Government shall cause such report to be laid, as soon as may be after it is received, before each House of Parliament.

CHAPTER IX

IMPORT OF PLANTS AND ANIMALS, ETC.

52 of 1962.

49. (1) The law for the time being in force relating to the customs and goods, the import of which is prohibited under the Customs Act, 1962 or any other law for the time being in force shall, subject to the provisions of section 3 of this Act, apply in respect of pests or plants or animals, the import of which requires permit and certificate by the Authority under the said section, or prohibited by the Authority and officers of Customs and officers empowered under the Customs Act, 1962 or any other law for the time being in force, to perform the duties imposed thereby on a Commissioner of Customs and other officers of Customs, shall have the same powers in respect of such pests or plants or animals as they have for the time being in respect of such goods as aforesaid.

Application of
law relating to
customs and
powers of Customs
officers.

(2) Without prejudice to the provisions of sub-section (1), the Commissioner of Customs or any officer of the Government authorised by the Central Government in this behalf, may detain any imported package which he suspects to contain any pests or plants or animals, the import of which requires the permit and certificate under section 3 or which is prohibited by the Authority under the said section and shall forthwith report such detention to the Authority, and, if necessary, forward, with the approval of the Authority, the package or sample of any suspected pests or plants or animals and its products found therein to the laboratory notified or research institution accredited under this Act.

50. No plant, animal or plant product or animal product or other object imported into India shall be released unless—

Release of
imported
products.

(i) the importer has produced to the Designated Officer all permits, certificates and other documentation as may be required under the provisions of this Act, or rules and regulations made thereunder;

(ii) such plant, animal, plant product or animal product or other object is, or has been, presented to and cleared by the Designated Officer in accordance with the provisions of this Act, or rules and regulations made thereunder.

Revocation or suspension of permit or certificate.

51. (1) If the Designated Officer is satisfied, either on a reference made to him in this regard or otherwise, that—

(a) the import permit or the sanitary or phytosanitary certificate has been granted by misrepresentation of an essential fact; or

(b) the holder of such import permit or sanitary or phytosanitary certificate has failed to comply with the conditions subject to which such import permit or sanitary or phytosanitary certificate was granted, or has contravened any of the provisions of this Act, or rules and regulations made thereunder,

then, without prejudice to any other penalty to which the holder of such permit or certificate, as the case may be, is liable under this Act, the Designated Officer may, after giving the holder of such permit or certificate, an opportunity of showing cause, revoke or suspend such permit or certificate.

(2) Subject to any regulation that may be made in this behalf, the Designated Officer may also vary or amend the permit or certificate granted under section 3 or section 4.

Removal of imports.

52. (1) Where the Designated Officer has reasons to believe that any plant, animal and plant product or animal product or other object imported into India—

(a) was imported in contravention of the provisions of this Act, or rules and regulations made thereunder; or

(b) contains a quarantine pest,

then, the Designated Officer may, give a notice by registered post or through electronic media or by any other verifiable means to the owner of such plant, animal, plant product or animal product or other object, or to the person having the possession, care or control of it, requiring him within a period not exceeding thirty days to remove it from India.

(2) Where the owner or the person referred to in sub-section (1) fails to remove such plant, animal, plant product or animal product or other object within such time as may be allowed for the purpose, the Designated Officer may seize it, cause it removed and destroyed at the cost of such owner or person.

(3) The costs of such seizure, removal or destruction shall be recoverable from such owner or person in the manner provided by the Code of Criminal Procedure, 1973, for the recovery of fines imposed by a Court, as if such costs were fine imposed by the Court.

2 of 1974.

CHAPTER X

ENFORCEMENT

Appointment of Designated Officers.

53. (1) The Authority shall, by notification, designate from amongst the officers of the Authority, such Designated Officers as it may deem fit, to perform functions and exercise powers under this Act or rules and regulations made thereunder for such areas, as may be specified in the notification.

(2) The Authority may, without prejudice to the provisions contained in sub-section (1), appoint by notification as the case may be, with the prior approval of the Central Government or State Government or research institutes or any other public institution, without prejudice to the provisions contained in sub-section (1), such technically qualified persons subject to such conditions as it deems fit, from amongst the officers or employees working under such Governments or institutions to act as Designated Officers to perform functions and exercise powers under this Act, or rules and regulations made thereunder for such areas, as may be specified in the notification.

(3) The Designated Officers, who deal with export certification, shall be deemed as public officers for meeting the requirements of international agreements and conventions for the purposes of such certification.

54. (1) A Designated Officer shall have the power to inspect, examine and take samples of any plant, animal, plant product or animal product or other object, for analysis or test.

Powers of
Designated
Officers.

(2) If the Designated Officer has reason to believe that violation of this Act, or rules and regulations made thereunder, has been or is being or is likely to be committed, or for the purpose of satisfying himself as to whether the provisions of this Act or rules and regulations made thereunder, or the conditions of any import permit or sanitary or phytosanitary certificate are being complied with, he may,—

(a) enter and search, at all reasonable times and with such assistance, if any, as he considers necessary, any land or premises to require any person to produce any import permit, sanitary or phytosanitary certificate or other documentation required under this Act or rules and regulations made thereunder;

(b) inspect, examine and make copies of such permit, certificate or other documentation, or take extracts of registers or records maintained by such person, where he has reason to believe that any offence under this Act has been committed by such person and seize such registers or records or portions thereof as he may consider relevant in respect of that offence;

(c) search any person, baggage (including luggage, bags, suitcase, hand bag and personal belongings), package (including boxes, parcel, containers, wooden packaging material) and other packaging material, conveyance (including boat, ship, ferry, cruise, aircraft, vessel, hovercraft, train, truck, car, cart, cargo, container and animal) or other thing upon entry into or exit from India by means of which the offence under this Act has been or is being committed or which may be employed for commission of such offence;

(d) stop the distribution, sale or use of any plant, animal, plant product or animal product or other object, and seize the same, which he has reason to believe is being distributed, sold or used in contravention of the provisions of this Act, or rules and regulations made thereunder;

(e) where he has reason to believe that a pest is injurious to plant, animal, plant product or animal product or other object, order at the expenses of the owner the treatment or disposal (including reshipment and confinement in a quarantine station) of the pest or any plant, animal, plant product or animal product or other object imported into India, whether or not covered by an import permit or a sanitary or phytosanitary certificate including treatment of any incoming conveyance into India.

2 of 1974.

(3) The provisions of the Code of Criminal Procedure, 1973, or, in relation to the State of Jammu and Kashmir, any area in which that Code is not in force, the provisions of any corresponding law in force in that State or area, shall, so far as may be, apply to any search or seizure under this section as they apply to any search or seizure made under the authority of a warrant issued under section 94 of the said Code or, as the case may be, under the corresponding provisions of the said law.

55. (1) Where a Designated Officer has reasons to believe that a quarantine pest is, or could be, present in an area, he may prohibit the owners or occupiers of any land or building in that area or any other person having the possession, care or control of plants, animals and plant products or animal products or other objects in that area from moving them without the written authorisation of such Designated Officer.

Duties of
Designated
Officers.

(2) The Designated Officer shall serve a notice in writing upon the owners or occupiers of any land or building in the area specified in sub-section (1), and, if necessary, upon owners or occupiers of any land or building in any adjacent place, ordering each of them, within a period to be indicated in such notice, to perform such treatment and carryout such measures, including the total destruction, of any plant, plant product, animal or animal product or other thing, whether or not infested or infected with the quarantine pest, as such Designated Officer may deem necessary for the eradication, containment or prevention of the spread of such quarantine pest.

(3) A notice under sub-section (2) shall be communicated in writing to the concerned owners or occupiers or other persons.

(4) Where no owner, occupier or any other person referred to in sub-section (2) on whom the notice is issued is present or found, or if the concerned land or plants, animals, plant products or animal products or other objects are not under the ownership, occupation, possession, care or control of such owner or occupier, service of any notice under sub-section (2) may be made by affixing such notice in a conspicuous place where such plants, animals, plant products or animal products or other plants are located, and such affixing shall be deemed to be the service of the notice on concerned owner, occupier or such other person.

(5) If the owner or occupier or person referred to in sub-section (2), fails to comply with the requirements of the notice served under sub-section (2) or, as the case may be, under sub-section (4) on him, the Designated Officer shall proceed with the treatment, or destruction, as the case may be, and take such measures as may be necessary for properly and effectively carrying out the requirements of the notice.

Procedures for
sampling and
analysis.

56. Procedures for sampling, testing and analysing plants, animals, plant products or animal products and other objects, shall be such as may be specified by regulations made in this behalf.

All agencies to
assist.

57. Every agency of the Central Government and the State Governments shall render such help and assistance and furnish such information to the Designated Officer or a person or an agency authorised by him in writing, as he may require for the discharge of his functions under this Act, rules and regulations made thereunder.

Compensation
not to be paid in
certain cases.

58. Notwithstanding anything contained in any law for the time being in force, no compensation shall be payable for any action taken by the Designated Officer in good faith under this Act and the rules and regulations made thereunder in respect of—

(a) a plant, animal, plant product or animal product or other object that is imported into India or exported from India in contravention of this Act, or the rules and regulations made thereunder, or such plant, animal, plant product, animal product or other object that is found to be infested or infected with a quarantine pest when it is inspected on importation or before exportation; or

(b) the prohibition or restriction of the sale or movement of any plant, animal, plant product or animal product or other object where such sale or movement is prohibited or restricted as a result of the suspension or revocation of, or the refusal to grant, an import permit or a sanitary or phytosanitary certificate that is required under this Act, or the rules and regulations made thereunder:

Provided that the authority may award a reasonable compensation to a person for any loss or damage incurred to him in respect of non-infested or non-infected plant, animal, plant product or animal product or any other objects, land or premises, in the course of, or as a result of the implementation of, any sanitary or phytosanitary measure.

CHAPTER XI

OFFENCES AND PUNISHMENT

59. Whoever contravenes any provision of this Act or the rules or regulations made thereunder, for the contravention of which no penalty has been separately provided in this Chapter, shall be liable to a penalty which may extend to two lakh rupees. Penalty for contraventions for which no specific penalty is provided.
60. If a person without the permission of the Designated Officer, retains, removes or tampers with any material or other thing that has been seized under this Act, he shall be punishable with imprisonment for a term which may extend to six months and also with fine which may extend to two lakh rupees. Punishment for interfering with seized items.
61. If a person, in connection with a requirement or direction under this Act, provides any information or produces any document that the person knows is false or misleading, he shall be punishable with imprisonment for a term which may extend to three months and also with fine which may extend to two lakh rupees. Punishment for false information.
62. If a person without reasonable excuse, resists, obstructs, or attempts to obstruct, impersonate, threaten, intimidate or assault a Designated Officer in exercising his functions under this Act, he shall be punishable with imprisonment for a term which may extend to three months and also with fine which may extend to one lakh rupees. Punishment for obstructing or impersonating a Designated Officer.
63. Whoever, in contravention of the provisions of sections 3 and 4, imports or exports any plant, animal or animal product or plant product or any other product, he shall be punishable with imprisonment which may extend to two years and shall also be punishable with fine which may extend to two lakh rupees. Penalty for contravention in relation to imports and exports.
64. (1) If any person, after having been previously convicted of an offence punishable under this Act subsequently commits and is convicted of the same offence, he shall be liable to— Punishment for subsequent offences.
- (i) twice the punishment, which might have been imposed on a first conviction, subject to the punishment being maximum provided for the same offence; and
- (ii) a further fine on daily basis which may extend up to one lakh rupees, where the offence is a continuing one.
- (2) The Court may also cause the offender's name and place of residence, the offence and the penalty imposed to be published at the offender's expense in such newspapers or in such other manner as the court may direct and the expenses of such publication shall be deemed to be part of the cost attending the conviction and shall be recoverable in the same manner as a fine.
65. (1) Where an offence under this Act has been committed by a company, every person who at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly: Offences by companies.
- Provided that nothing contained in this sub-section shall render any such person liable to any punishment if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.
- (2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has

been committed with the consent or connivance of, or that the commission of the offence is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.— For the purposes of this section,—

(a) "company" means any body corporate and includes a firm or other association of individuals; and

(b) "director", in relation to a firm, means a partner in the firm.

Cognizance and trial of offences.

66. (1) No court shall take cognizance of an offence punishable under this Act, except upon the complaint in writing made by the Authority or by any officer of the Authority duly authorised by the Authority for this purpose.

(2) No court inferior to that of a Metropolitan Magistrate or a Judicial Magistrate of the first class, shall try any offence punishable under this Act.

Recovery of penalty, etc.

67. A penalty imposed under this Act or any dues of the Authority under this Act, if it is not paid, shall be recovered as an arrear of land revenue.

CHAPTER XII

CONTROL BY CENTRAL GOVERNMENT

Directions by Central Government.

68. (1) Without prejudice to the foregoing provisions of this Act, the Authority shall, in exercise of its powers and in performance of its functions under this Act, be bound by such directions on questions of policy other than those relating to technical and administrative matters, as the Central Government may give in writing to it from time to time:

Provided that the Authority shall, as far as practicable, be given opportunity to express its views before any direction is given under this sub-section.

(2) If any dispute arises between the Central Government and the Authority as to whether the question is or is not of policy, the decision of the Central Government thereon shall be final.

(3) The Authority shall furnish to the Central Government such returns or other information, with respect to its activities, as the Central Government may, from time to time require.

Power of Central Government to prohibit import of pests or plants or animals and its products in public interest.

69. Without prejudice to any other provision contained in this Chapter, if the Central Government is satisfied that the use of any pests or plants or animals or its products is likely to involve any risk to human beings or animals or that in the public interest it is necessary or expedient so to do then, that Government may, by notification, prohibit the import of such pests or plants or animals and or its products.

Power to supersede Authority.

70. (1) If, at any time, the Central Government is of the opinion—

(a) that on account of a grave emergency, the Authority is unable to discharge the functions and duties imposed on it by or under the provisions of this Act; or

(b) that the Authority has persistently made default in complying with any direction issued by the Central Government under this Act or in the discharge of the functions and duties imposed on it by or under the provisions of this Act; or

(c) that circumstances exist which render it necessary in the public interest so to do,

the Central Government may, by notification, supersede the Authority for such period, not exceeding six months, as may be specified in the notification:

Provided that before issuing a notification under this sub-section for the reasons mentioned in clause (b), the Central Government shall give a reasonable opportunity to the Authority to show cause why it should not be superseded and shall consider the explanations and objections, if any, of the Authority.

(2) Upon the publication of a notification under sub-section (1) superseding the Authority,—

(a) all the members shall, as from the date of supersession, vacate their offices as such;

(b) all the powers, functions and duties which may, by or under the provisions of this Act, be exercised or discharged by or on behalf of the Authority, shall until the Authority is reconstituted under sub-section (3), be exercised and discharged by such person or persons as the Central Government may direct ;

(c) all property owned or controlled by the Authority shall, until the Authority is reconstituted under sub-section (3), vest in the Central Government.

(3) On the expiration of the period of supersession specified in the notification issued under sub-section (1), the Central Government may—

(a) extend the period of supersession for such further term not exceeding six months, as it may consider necessary; or

(b) reconstitute the Authority by fresh appointment and in such case the members who vacated their offices under clause (a) of sub-section (2) shall not be deemed disqualified for appointment:

Provided that the Central Government may, at any time, before the expiration of the period of supersession, whether as originally specified under sub-section (1) or as extended under this sub-section, take action under clause (b) of this sub-section.

(4) The Central Government shall cause a notification issued under sub-section (1) and a full report of any action taken under this section and the circumstances leading to such action to be laid before both Houses of Parliament at the earliest opportunity.

CHAPTER XIII

MISCELLANEOUS

71. The provisions of this Act shall be in addition to, and not in derogation of, any other law for the time being in force.

Act to have effect in addition to other laws.

72. The Authority shall furnish to the Central Government such returns or other information with respect to its activities as the Central Government may, from time to time, require.

Power of Central Government to obtain reports and returns.

73. The members , officers and other employees of the Authority shall, be deemed, when acting or purporting to act in pursuance of this Act or the rules and regulations, made thereunder, to be public servants within the meaning of section 21 of the Indian Penal Code.

Officers and employees of the Authority to be public servants.

74. No suit, prosecution or other legal proceedings shall lie against the Government, or the Authority, or any member of the Authority, or officers or other employees of the Central Government or Authority, for anything which is in good faith done or intended to be done under this Act, or the rules and regulations made thereunder.

Protection of action taken in good faith.

Bar of
jurisdiction of
civil courts.

75. No civil court shall have jurisdiction in respect of any matter which the Authority or Central Government is empowered by or under this Act to determine and no injunction shall be granted by any court in respect of any action taken or to be taken by the Authority and the Central Government in pursuance of any power conferred by or under this Act.

Power of Central
Government to
make rules.

76. (1) The Central Government may, by notification, make rules for carrying out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing, such rules may provide for all or any of the following matters, namely:—

(a) experience of the years under section 9;

(b) the powers and functions of the Authority which may be exercised and discharged by the Director General under section 10;

(c) the term of office and conditions of service of, and fee and allowances payable to, the Director General, Deputy Director General and the other members other than *ex officio* members under sub-section (1) of section 11;

(d) the powers and duties of secretary under sub-section (1) of section 15;

(e) control and restrictions subject to which the Authority may appoint other officers and employees under section 16;

(f) the form in which the option of willingness or otherwise to become employees of the Authority be given under sub-section (3) of section 22;

(g) other activities to be undertaken by Authority under clause (y) of section 23;

(h) the manner and fee for appeal under section 41;

(i) the form in which the Authority shall maintain proper accounts and other relevant records, and prepare an annual statement of accounts including profit and loss account and balance sheet under sub-section (1) of section 47;

(j) the form and time in which the Authority shall prepare an annual report under sub-section (1) of section 48;

(k) any other matter which is to be or may be prescribed under the Act.

Power to make
regulations.

77. (1) The Authority may, with the previous sanction of the Central Government, by notification, make regulations not inconsistent with the provisions of this Act or rules made thereunder, to provide for all matters necessary to give effect to the provisions of this Act or rules made thereunder.

(2) In particular, and without prejudice to the generality of the foregoing, such regulations may provide for all or any of the following matters, namely:—

(a) the form, manner, fee, conditions and exemptions of the import permit under clause (i) of section 3;

(b) the authority of the country of origin and the country of re-export which shall issue the sanitary or phytosanitary certificate under clause (ii) of section 3;

(c) the manner in which and the fee on payment of which the Designated Officer shall issue the sanitary or phytosanitary certificate under section 4;

(d) the times and places of meetings, and procedures in regard to the transaction of business at the meetings, including the quorum of the Authority under sub-section (1) of section 12;

(e) the method of appointment, the scale of pay and allowances and other conditions of service of other officers and employees of the Authority under section 16;

(f) the manner in which the experts and professionals may be engaged by the Authority and their remuneration or fee under section 18;

(g) post-entry quarantine measures which may be implemented by the Authority or through research institutes or jointly with such research institutes under clause (f) of section 23;

(h) fee to be charged for services under clause (w) of section 23;

(i) the form and manner in which any contract shall be made under sub-section (2) of section 34;

(j) procedures for sampling, testing and analysing plants, animals, plant products or animal products and other objects under section 56;

(k) generally for the efficient conduct of the affairs of the Authority.

78. Every rule and every regulation made under this Act shall be laid, as soon as may be after it is made, before each Houses of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or the regulation, as the case may be, or both Houses agree that the rule or regulation should not be made, the rule or regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation.

Laying of rules and regulations before Parliament.

79. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act, as may appear to be necessary, for removing the difficulty:

Power to remove difficulties.

Provided that no order shall be made under this section after the expiry of the period of three years from the date of commencement of this Act.

(2) Every order made under this section shall be laid, as soon as it is made, before each House of Parliament.

2 of 1914.
9 of 1898.

80. (1) The Destructive Insects and Pests Act, 1914 and the Livestock Importation Act, 1898 (hereafter referred to as the repealed enactments) are hereby repealed:

Repeal and savings.

Provided that such repeal shall not affect,—

(a) the previous operation of the said enactments or anything duly done or suffered thereunder; or

(b) any right, privilege, obligation or liability acquired, accrued or incurred under the said enactments; or

(c) any penalty, forfeiture or punishment incurred in respect of any offence committed against the said enactments; or

(d) any investigation, legal proceeding (including assessment proceeding) or remedy in respect of any such right, privilege, obligation, liability, forfeiture or punishment as aforesaid,

and any such investigation, legal proceeding or remedy may be instituted, continued or enforced, and any such penalty, forfeiture or punishment may be imposed as if this Act had not been passed.

(2) Notwithstanding the repeal by sub-section (1) of the repealed enactments,—

(a) any notification, order or notice issued, or declaration made, or permit or certificate granted, or any other thing done, or any other action taken under the repealed enactments, and in force immediately before the commencement of this Act shall, be deemed to have been issued, made, granted, done or taken under the corresponding provisions of this Act until the notification, order or notice or permit or certificate is issued under this Act;

(b) all rules made under section 4 of the Livestock Importation Act, 1898 and section 4D and section 5 of the Destructive Insects and Pests Act, 1914 shall continue to have effect until the rules and regulations are made under this Act.

9 of 1898.

2 of 1914.

(3) The mention of particular matters in proviso to sub-section (1) and sub-section (2) shall not be held to prejudice or affect the general application of section 6 of the General Clauses Act, 1897 with regard to the effect of repeal.

10 of 1897.

STATEMENT OF OBJECTS AND REASONS

The new and emerging factors including genetic engineering, climate change, bio-terrorism and transboundary diseases have profound implications on the plant and animal health and environment with strong connections to human health. The liberalisation of global trade in agriculture since 1995 has opened new avenues for growth and diversification of agriculture, but it has also brought in many challenges. There is an increased risk of introduction of exotic pests and weeds in the country with the potential to cause serious economic losses. Advances in genetic engineering leading to the introduction and release of living modified organisms or their products (e.g. genetically modified organisms) require proper risk assessment and management. Climate change has the potential to alter the habitat of known pests and even cause introduction of new pests. We have to contend with the ever increasing threat of bio-terrorism. The emergence and spread of transboundary diseases such as the avian influenza and the Ug-99 wheat stem rust fungus pose new threats to human, animal and plant safety.

2. A number of plant diseases, animal diseases and marine diseases and pests have been introduced into India through import of seeds, planting material, livestock and livestock products previously. Many of them, including weeds such as *Parthenium*, *Phalaris minor* and *Lanata camara*, have got established in the country and continue to cause enormous economic losses every year. Seen in this context, the potential risks in the emerging scenario are a cause for concern.

3. Over the years systems have been developed and put in place separately for protection of plant, animal and marine health. The existing systems including infrastructure for agricultural biosecurity of the country need major changes to meet the emerging challenges which have highlighted agricultural biosecurity as an urgent issue requiring policies and technological capabilities to prevent, detect, and respond to such threats. An integrated approach towards agricultural biosecurity would not only increase the national capacity to protect human health, agricultural production and livelihood, safeguard the environment, and protect against uncertain technologies and products, but also equip the country to meet obligations under international trade and sanitary and phytosanitary agreements in food and agricultural products. Agricultural biosecurity is an essential element of sustainable agricultural development. The National Commission on Farmers has recommended developing a National Agricultural Biosecurity System characterised by high professional, public, and political credibility through integration of plant, animal and fish management systems on biosecurity based on risk analysis and management. It has also recommended establishment of synergies in requirements of international agreements and national regulations across these sectors to avoid duplication of resources. The National Policy for Farmers (2007) has identified strengthening the biosecurity of crops, farm animals, fish, and forest trees for safeguarding the livelihood and income security of farmer families and the health and trade security of the nation as a major policy goal.

4. In the 3rd meeting of the Agriculture Coordination Committee held on the 15th February, 2008, it was recognised that it was essential to establish an integrated national biosecurity system covering plant, animal and marine issues. A Core Group was constituted by the Department of Agriculture and Cooperation on the 22nd April, 2008 for formulating recommendations for establishment of an integrated national biosecurity system. The Core Group in its report submitted on the 26th February, 2009, *inter alia*, recommended establishment of the National Agricultural Biosecurity System requiring a new legislation which is more relevant in the context of the present

scenario. It suggested that the traditional approach of managing agricultural biosecurity on a sectoral basis through the development and implementation of separate policy and legislative frameworks (e.g. for animal and plant life and health) would have to be converted to a cohesive and convergent approach recognising the interdisciplinary nature of biosecurity. In a harmonised and integrated system, various authorities would work together towards the common goal of agricultural biosecurity utilising expertise from various organisations under the Ministries of Agriculture, Commerce and Industry, Defence, Environment and Forests, Health and Family Welfare, Home Affairs, Rural Development and Science and Technology. An autonomous authority would be required for administering the biosecurity authority on the lines of the Food Safety and Standards Authority of India, and successful models of integrated biosecurity organisations in countries like Australia, New Zealand and United States of America. Such an authority would improve safety, efficiency, transparency and compliance of quarantine and pest management regulations and respond swiftly to contain emergent biosecurity problems. It will ensure conduct of biosecure international trade in agriculture.

5. The Core Group pointed out that the Destructive Insects and Pests Act, 1914 and the Livestock Importation Act, 1898 are age old legislations and are subsidiary to the Customs Act, 1962 which does not give direct powers to the quarantine officers to deport or destroy or confiscate the consignment or lodge complaints under the Indian Penal Code. Inadequate or obsolete definitions in these Acts need to be updated. Adequate provisions for regulating plants, livestock and aquatics and powers for inspecting transport vehicles and seizure and destruction of infested or infected plants and livestock or their products have to be incorporated. Punishment or penalty on the importers or custom house clearing agents or other defaulters for violation of provisions of the legislation has to be provided. Provisions for effective domestic quarantine have to be incorporated. The enabling legislation for the proposed biosecurity authority would have to be enacted.

6. In keeping with the recommendations of the National Commission on Farmers and the Core Group, the Agricultural Biosecurity Bill, 2013 has been prepared. The main objective of the Bill is to bring together the plant, animal and marine protection and quarantine set ups together under a high powered body with adequate powers for a quantum jump in the capability to safeguard the country's agricultural biosecurity. The Bill seeks to set up an autonomous authority encompassing the four sectors of agricultural biosecurity, namely, plant health, animal health, living aquatic resources (fisheries, etc.) and agriculturally important micro-organisms. It provides for modernising the legal framework to regulate safe movement of plants and animals within the country and in international trade, and harmonise the legal requirements of the various sectors of agricultural biosecurity. The proposed legislation will ensure agricultural biosecurity of the country for common benefit and for safeguarding the agricultural economy.

7. The salient features of the proposed legislation, *inter alia*, are as follows:—

- (a) integration of plant and animal quarantine services;
- (b) establishment of an Authority for prevention, control, eradication and management of pests and diseases of plants and animals and unwanted organisms for ensuring agricultural biosecurity;
- (c) to meet international obligations of India for facilitating imports and exports of plants, plant products, animals, animal products, aquatic organisms and regulation of agriculturally important micro-organisms;
- (d) prevention and control of pest infestation or infection, including declaration of an area as "controlled area" for this purpose and measures for control of such infestation or infection;

(e) provision for inspection, taking samples, entry and search of premises, checking of conveyances to ensure compliance of phytosanitary and sanitary measures and also seizure, treatment and disposal of plants, animals and their products to prevent spread of pests by designated officers;

(f) declaration of biosecurity emergency in case of outbreak of organisms threatening biosecurity and actions and procedures to deal with it;

(g) removal of plant, animals, their products and other objects imported in violation of the provisions of the proposed legislation.

8. The notes on clauses explain in detail the various provisions contained in the Bill.

9. The Bill seeks to achieve the aforesaid objectives.

NEW DELHI;
The 30th August, 2012,

SHARAD PAWAR.

PRESIDENT'S RECOMMENDATION UNDER ARTICLE 117 OF THE
CONSTITUTION OF INDIA

[Copy of letter No. 8-13/2008-PP.II, dated 18th February, 2013 from Shri Sharad Pawar, Minister of Agriculture and Food Processing Industries to the Secretary-General, Lok Sabha]

The President, having been informed of the subject matter of the Agricultural Biosecurity Bill, 2013, recommends to the House the introduction and consideration of the Bill under article 117 (1) and (3) of the Constitution.

Notes on clauses

Clause 1.— The proposed legislation provides for short title, extent and commencement.

Clause 2.—This clause defines certain terms and expressions used in the proposed legislation which, *inter alia*, include "animal", "animal product", "Authority", "Beneficial organism", "Biosecurity", "Controlled area", "Designated Officer", "eradication" and "phytosanitary or sanitary measure".

Clause 3.—This clause provides for prohibition of import. It provides that no person shall import into India any plant, animal or plant product or animal product or any other object in contravention of any notification issued by the Authority specifying the plant, animal, plant product or animal product or other object, or in contravention of the guidelines issued by the Authority, the import of which shall be prohibited except in accordance with an import permit issued by the Designated Officer in such form, manner and on payment of such fee and subject to such conditions and exemptions as may be specified by regulations and the sanitary or phytosanitary certificate issued by such authority of the country of origin and the country of re-export of such imports as may be specified by the regulations.

Clause 4.—This clause provides for prohibition of export. It provides that no person shall export any plant, animal, plant product or animal product or other object except in accordance with the sanitary or phytosanitary certificate issued by the Designated Officer in such manner and on payment of such fee as may be specified by regulations. However, no such certificate shall be necessary where the country of destination does not require it.

Clause 5.—This clause provides for domestic quarantine. It provides that except as provided under the proposed legislation, or rules and regulations made thereunder, no person shall possess, move, grow, raise, culture, breed or produce any plant, animal and plant product or animal product or any other object, as the case may be, if he has reasons to believe that it is carrying or harbouring, or may carry or harbour, a quarantine pest, or that it is or could be infested or infected with a quarantine pest.

Clause 6.—This clause provides about the duty of a person to inform. It provides that where a person becomes aware of the existence of a pest or disease of plant or animal which the person suspects to be a quarantine pest or disease in an area where such pest or disease has not previously been known to exist, it shall be the duty of the person to inform immediately the existence of such pest or disease.

Clause 7.—This clause provides for the constitution and incorporation of Authority. It provides that with effect from the appointed day, the Central Government shall, by notification, constitute an authority to be called the Agricultural Biosecurity Authority of India. The Authority so constituted shall be a body corporate by the name aforesaid, having perpetual succession and a common seal, with power, subject to the provisions of the proposed legislation, to acquire, hold and dispose of property, both movable and immovable, and to contract, and shall by the said name sue or be sued. It also provides that the head office of the Authority shall be at Faridabad.

Clause 8.—This clause provides for the composition of the Authority. It provides for the following composition:—

(a) a Director General to be appointed by the Central Government;

(b) two Deputy Director Generals to be appointed by the Central Government from amongst the persons having special knowledge and experience of not less than ten years in plant and animal sciences—Members;

(c) two members to be appointed by the Central Government, from amongst persons having special knowledge and experience of not less than ten years in plant and animal quarantine, or in plant and animal protection, or in any other discipline pertaining to plant and animal protection, which, in the opinion of the Central Government, is related to the functions of the Authority — Members;

(d) three members to be appointed by the Central Government by rotation in the alphabetical order to represent the states and the union territories, on the recommendation of the Government of the State, or as the case may be, the union territory concerned;

(e) one representative of Ministry or Department dealing with the Agriculture and Co-operation, not below the rank of Joint Secretary—Member;

(f) one representative of Ministry or Department dealing with the Animal Husbandry, Dairying and Fisheries, not below the rank of Joint Secretary—Member;

(g) one representative of the Ministry or Department dealing with the Commerce, not below the rank of Joint Secretary — Member;

(h) one representative of Ministry or Department dealing with the Environment and Forest, not below the rank of Joint Secretary — Member;

(i) one representative from the Indian Council of Agricultural Research, to be nominated by the Director-General, Indian Council of Agricultural Research, not below the rank of Joint Secretary — Member;

(j) one representative from the Indian Council of Forestry Research and Education, to be nominated by the Director-General, Indian Council of Forestry Research and Education, not below the rank of Joint Secretary — Member;

(k) one representative of Ministry or Department dealing with health or from Food Safety and Standards Authority of India, not below the rank of Joint Secretary — Member;

(l) the Member (Customs) of Central Board of Excise and Customs, Department of Revenue, Ministry of Finance — Member;

(m) one representative from the Ministry or Department dealing with Biotechnology, not below the rank of Joint Secretary — Member;

(n) one representative to be nominated by Director General, Council of Scientific and Industrial Research, not below the rank of Joint Secretary — Member;

(o) one representative from National Disaster Management Authority, not below the rank of Joint Secretary — Member;

(p) one representative from Defence Research and Development Organisation, not below the rank of Joint Secretary — Member;

(q) one representative of the Ministry or Department dealing with legal or legislative affairs, not below the rank of Joint Secretary — Member.

Clause 9.—This clause provides for the qualifications for appointment of Director General. It provides that the Director General of the Authority shall be appointed by the Central Government from amongst persons who have special knowledge and professional experience of such years as may be prescribed in plant and animal quarantine or in plant and animal protection or any other discipline pertaining to plant and animal protection or from amongst the persons from the administration who have been associated with the subject. However, a person who is in the service of Government shall not be appointed as Director General unless he is holding or has held the post not below the rank of Additional Secretary to the Government of India.

Clause 10.—This clause provides for the powers of the Director General. It provides that the Director General shall be the Chief Executive Officer of the Authority

and shall have the general superintendence and directions in the conduct of the affairs of the Authority and shall, in addition to presiding over the meetings of the Authority, exercise and discharge such powers and functions of the Authority as may be prescribed.

Clause 11.—This clause provides for the conditions of service of the Director General and Members. It provides that term of office and conditions of service of, and fee and allowances payable to, the Director General, Deputy Director General and the other members (other than ex-officio members) shall be such as may be prescribed.

Clause 12.—This clause provides for meetings of the Authority. It provides that the Authority shall meet at such times and places, and shall observe such procedures in regard to the transaction of business at its meetings, including the quorum, as may be provided by regulations. It further provides that the Director General, if for any reason is unable to attend any meeting of the Authority, any other member chosen by the members present from amongst themselves at the meeting shall preside at the meeting. It also provides that all questions which come up before the Authority in the meeting shall be decided by a majority of votes of the members present and voting, and, in the event of an equality of votes, the Director General, or in his absence, the person presiding the meeting, shall have a second or casting vote. It also empowers the Authority to make regulations for the transaction of business at its meetings.

Clause 13.—This clause provides that vacancies, etc., should not invalidate the proceedings of the Authority. It provides that no act or proceeding of the Authority shall be invalid merely for reason of any vacancy in, or any defect in the constitution of, the Authority or any defect in the appointment of a person acting as a member of the Authority or any irregularity in the procedure of the Authority not affecting the merits of the case.

Clause 14.—This clause provides for removal of Director General, Deputy Director General and Members. It provides that notwithstanding anything contained in clause 11, the Central Government may, by order, remove from office the Director General, Deputy Director General or any member referred to in sub-clause (c) of clause 8, if the Director General or such other member has been adjudged an insolvent or has been convicted of an offence, which in the opinion of the Central Government, involves moral turpitude or has become physically and mentally incapable of acting as a member or has acquired such financial or other interests as are likely to affect prejudicially his functions as a member or has so abused his position as to render his continuance in office prejudicial to the public interest. However, no member shall be removed under items (d) and (e) of sub-clause (1) unless he has been given a reasonable opportunity of being heard in the matter.

Clause 15.—This clause provides for the Secretary of Authority and his powers. It empowers the Central Government to appoint a Secretary to the Authority who shall exercise such powers and perform such duties as may be prescribed or as may be delegated to him by the Director General. It further provides that the Secretary shall be entitled to such salary and allowances and shall be subject to such conditions of service in respect of leave, pension, provident fund and such other matters, as may, from time to time, be fixed by the Central Government.

Clause 16.—This clause provides for officers and employees of the Authority. It provides that subject to such control and restrictions as may be prescribed, the Authority may appoint such other officers and employees, as may be necessary, for the efficient performance of its functions and the method of appointment, the scale of pay and allowances and other conditions of service of such other officers and employees of the Authority shall be such as may be provided by the Authority by regulations.

Clause 17.—This clause prohibits the Director General etc., from undertaking any other work. It provides that the Director General, Deputy Director General, other

members, the Secretary and other employees of the Authority shall not undertake any work unconnected with their duties under the proposed legislation, except with the permission of the Central Government.

Clause 18.—This clause provides for appointment of experts. It empowers the Authority to engage, in such manner and on such remuneration or fee as may be specified by regulations such number of experts and professionals of integrity and outstanding ability, having special knowledge of, and experience in, plant pests and diseases and animal diseases or such other disciplines related to agricultural biosecurity as it deems necessary to assist the Authority in the discharge of its functions under the proposed legislation.

Clause 19.—This clause provides for appointment of committees by the Authority. It provides that the Authority may appoint such committees as may be necessary for the efficient discharge of its duties and performance of its functions under the proposed legislation. It further provides that the Authority shall have the power to co-opt as members of any committee appointed under sub-clause (1) such number of persons, who are not members of the Authority, as it may think fit and the persons so co-opted shall have the right to attend the meetings of the committee and take part in its proceedings but shall not have the right to vote. It also provides that the persons co-opted as members of a committee under sub-clause (2) shall be entitled to receive such allowances for attending meetings of the committee as may be fixed by the Authority.

Clause 20.—This clause provides for transfer and vesting in the Authority, undertakings of plant, animal quarantine stations, etc. It provides that on and from the appointed day, there shall be transferred to, and vest in, the Authority constituted under clause 7, the undertakings of the existing Plant Quarantine stations, Central Integrated Pest Management Centres, Locust Warning Organisation, Secretariat of Central Insecticide Board and Registration Committee, any other laboratories under the Directorate of Plant Protection, Quarantine and Storage, Government of India and animal quarantine stations and connected laboratories, referred to as "the undertakings" in the proposed legislation. It further provides that the undertakings which are transferred to, and which vest in the Authority under sub-clause (1) shall be deemed to include all assets, rights, powers, authorities and privileges and all property movable and immovable, real or personal, corporeal or incorporeal, present or contingent, of whatever nature and wheresoever situate, including lands, buildings, machinery, equipments, works, workshops, cash balances, capital, reserves, reserve funds, investments, tenancies, leases and book debts and all other rights and interests arising out of such property as were immediately before the appointed day in the ownership, possession or power of the undertakings, in relation to their undertakings, whether within or outside India, all books of account and documents relating thereto and shall also be deemed to include all borrowings, liabilities and obligations of whatever kind then subsisting of the undertakings in relation to their undertakings.

Clause 21.—This clause relates to general effect of vesting of undertaking in the Authority. It provides that all contracts, agreements and working arrangements subsisting immediately before the appointed day and affecting the undertakings, shall, in so far as they relate to the undertakings cease to have effect or be enforceable against the undertakings and shall be of as full force and effect against or in favour of the Authority in which the undertakings have vested by virtue of the proposed legislation and enforceable as fully and effectually as if, instead of the undertakings the Authority had been named therein or had been a party thereto. It further provides that any proceeding, suit or cause of action pending or existing immediately before the appointed day by or against the undertakings in relation to their undertakings may, as from that day, be continued and enforced by or against the Authority in which they have vested by virtue of the proposed legislation, as it might have been enforced by or against the undertakings if the proposed legislation had not been passed, and shall cease to be enforceable by or against the undertakings.

Clause 22.—This clause provides for special provision for transfer of employees to the Authority. It provides that on the establishment of the Authority, it shall be lawful for Central Government to transfer to the Authority, by order and with effect from such date or dates as may be specified in the order, any officer or other employee holding office as such in the Directorate of Plant Protection Quarantine and Storage and Animal Quarantine Stations under the Central Government immediately before the date on which the Authority is established. However, the scale of pay of the post in the Authority to which such officer or other employee is transferred shall not be lower than the scale of pay of the post he was holding immediately before such transfer and the other terms and conditions of service (including pension, leave, provident fund and medical benefits) of the post to which he is transferred shall not be less favourable than the terms and conditions of service in relation to the post held by him immediately before such transfer. It further provides that an order under sub-clause (1) may be made so as to have retrospective effect from a date not earlier than the date of the commencement of the proposed legislation.

It further provides that before any order is issued under sub-clause (1), all officers and employees of the aforesaid Directorate of Plant Protection Quarantine and Storage and Animal Quarantine Stations shall be given an option to express, in such form as may be prescribed, and within such time as may be specified in that behalf by the Central Government, their willingness or otherwise to become employees of the Authority and such option once exercised shall be final. However, no order under sub-clause (1) shall be made in relation to any officer or other employee of the Directorate of Plant Protection Quarantine and Storage and Animal Quarantine Stations who has intimated his intention of not becoming an employee of the Authority within the time specified in that behalf. Further, such of the officers and employees of the Directorate of Plant Protection Quarantine and Storage and Animal Quarantine Stations who do not express, within the time specified in that behalf, their intention of becoming the employees of the Authority, shall be dealt with in the same manner and in accordance with the same laws and standing orders as would have applied immediately before the commencement of the proposed legislation to the employees of the Directorate of Plant Protection Quarantine and Storage and Animal Quarantine Stations in the event of the reduction of the strength of the officers and employees of the Directorate of Plant Protection Quarantine and Storage and Animal Quarantine Stations.

It also provides that an officer or other employee transferred by an order made under sub-clause (1) shall, on and from the date of transfer, cease to be an employee of the Directorate of Plant Protection Quarantine and Storage and Animal Quarantine Stations and become an officer or other employee of the Authority with such designation as the Authority may determine and shall, subject to the provisions of the proviso to sub-clause (1), be governed by the regulations made by the Authority under the proposed legislation in respect of remuneration and other conditions of service (including pension, leave, provident fund and medical benefits) and shall continue to be an officer or other employee of the Authority unless and until his employment is duly terminated by the Authority. However, till such time as the regulations referred to above governing the conditions of service of its officers or other employees are framed by the Authority, the relevant laws and standing orders applicable to the officers and employees of the Directorate of Plant Protection Quarantine and Storage and Animal Quarantine Stations shall continue to be applicable to them. If a question arises whether the terms and conditions of service specified in the regulations framed by the Authority in respect of any matter, including remuneration, pension, leave, provident fund and medical benefits, are less favourable than those attached to the post held by an officer or other employee immediately before his transfer to the Authority, the decision of the Central Government in the matter shall be final.

Clause 23.—This clause relates to the functions of the Authority. It provides that the functions of the Authority shall be to:—

(a) prevent the introduction of quarantine pests in India from outside the country by regulating the import of plants, animals and plant products or animal products and other objects;

(b) regulate the export of plants, animals, plant products or animal products and other objects, to meet the importing country's requirements in accordance with international agreements, and to discharge such obligations under those international agreements;

(c) declare, by notification, any place to be a controlled area under clause 25;

(d) regulate the spread of pests and diseases of plants and animals from one State to another;

(e) regulate the introduction of new or beneficial organisms into the country;

(f) implement such post entry quarantine measures wherever necessary, either by itself or through research institutes, or jointly with such research institutes, as may be provided by regulations;

(g) undertake pest risk analysis;

(h) undertake regular review and revision with a view to update and harmonise sanitary or phytosanitary measures;

(i) undertake surveys and surveillance of pests and diseases of plants and animals in India;

(j) interact with international, regional or national plant protection organisations;

(k) interact with research institutes and State Governments on matters relating to plant and animal protection and quarantine;

(l) provide such technical guidance and assistance as it considers necessary to agriculture, horticulture, animal husbandry and fisheries departments of State Governments and other statutory bodies;

(m) arrange training programmes and hold workshops, seminars and conferences periodically to review status of pests and pathogens, and to spread awareness on plant and animal quarantine through mass media;

(n) frame guidelines for the import and export of plants, animals, plant products or animal products and other objects, whether for trade or research;

(o) regulate the import of transgenic materials with respect to sanitary and phytosanitary matters;

(p) establish plant and animal quarantine stations, pest management centres or other units at such places as may be deemed necessary;

(q) promote integrated pest management;

(r) watch and control locusts in such areas as the Central Government may, by notification, specify;

(s) take steps to ensure availability of safer and effective pesticides and their quality control;

(t) contribute towards development of human resource in plant and animal protection technology;

(u) advise and assist the Central Government on all matters including international obligations related to plant and animal protection;

(v) establish and maintain diagnostic laboratories related to pests and diseases of plants and animals;

(w) charge such fees for the services provided under the proposed legislation, as may be specified by regulations;

(x) recommend to the Central Government to issue directions to the State Governments for the purpose of enforcing obligations under international agreements;

(y) undertake such other activities as may be prescribed.

Clause 24.—This clause provides for declaration of quarantine pests. It empowers the Authority to declare, by notification, any pest to be a quarantine pest.

Clause 25.—This clause provides for controlled areas. It provides that where the Authority, on information received from the State Government or any other information obtained *suo-motu*, suspects or determines that an area is infested or infected with a quarantine pest, and is of the opinion that the quarantine pest could spread, the Authority may by notification declare that area to be a controlled area.

Clause 26.—This clause provides for action to be taken by the Authority on report of the State Government. It provides that where the information has been received by the Authority from any source other than the State Government, and the Authority has reason to believe that an area is infested or infected with a quarantine pest, and is of the opinion that the quarantine pest could spread, the Authority shall forward such information to the State Government requesting the State Government to send to the Authority a detailed report on the said information within a period stipulated by the Authority, or within such extended time as the Authority may deem fit in consultation with the State Government, before issuance of the declaration under clause 25. It further provides that where the concerned State Government fails to take measures in a controlled area declared under clause 25, then, it shall be lawful for the Authority to take necessary steps for eradication, containment or prevention of spread of the quarantine pest in such controlled area and such State Government shall reimburse the Authority the costs incurred by it for such purpose. However, the Central Government may exempt the concerned State Government from whole or part of the reimbursement of the costs, if the concerned State Government gives reasons to the satisfaction of the Central Government for such exemption and exempted costs shall be reimbursed by the Central Government to the Authority. It also provides that where an area has been declared as controlled area under clause 25 that area shall continue to be the controlled area until the Authority, by notification, declares that the controlled area is no longer infested or infected with quarantine pest.

Clause 27.—This clause relates to control measures and their implementation. It provides that where an area is notified to be a controlled area under clause 25, the Authority shall communicate to the concerned State Government the quarantine measures which the State Government may implement. It further provides that in particular, and without prejudice to the generality of the foregoing, such quarantine measures include the following matters, namely:—

(a) treatment or disposal of plants, plant products, animals, animal products or other objects, whether infested or infected or not, as well as treatment of conveyances in order to limit the spread of the quarantine pest and infected plants, plant products, animals and animal products;

(b) prohibition, restriction or control on removal of any plant, plant product, animal, animal product or other object from a controlled area to any other part of India;

(c) stipulation of the period within which it shall not be lawful to plant or replant with any particular plant, the whole or any portion of such controlled area.

(d) any other measure which the Authority may communicate.

It also provides that the Designated Officer and the State Government through its agencies shall jointly implement the quarantine measures referred to in sub-clauses (1) and (2) and they shall also co-ordinate surveys, reports and actions in case of new outbreak of pests or during eradication campaign.

Clause 28.—This clause relates to prohibition on removal of plants, animals, plant products or animal products or other objects, or pest under quarantine. It provides that no plant, animal, plant product or animal product or other object or pest in the area where quarantine measure has been implemented under the proposed legislation, shall be removed from that area or from a quarantine station situated in that area, except with the approval in writing of the Designated Officer.

Clause 29.—This clause provides for recovery of expenses for the State Government. It provides that where the State Government fails to repay the costs of any measures taken under this Chapter, such costs shall be recoverable from the State Government in the manner provided by the Code of Criminal Procedure, 1973, for the recovery of fines imposed by a Court, as if such costs were a fine imposed by a Court.

Clause 30.—This clause relates to accredited laboratories and accredited quarantine facilities. It provides that the Authority may accredit any laboratory, or any quarantine facility, subject to such conditions and to carry out such activities as may be specified by the regulation.

Clause 31.—This clause relates to delegation of powers by the Authority. It provides that the Authority may, by general or special order in writing, delegate to the Director General or any other member, or to any officer of the Authority, subject to such conditions and limitations, if any, as may be specified in the order, such of its powers and functions under the proposed legislation (except the powers under clause 76) as it may deem necessary.

Clause 32.—This clause relates to authentication of orders and other instruments of Authority. It provides that all orders and decisions of the Authority shall be authenticated by the signature of the Director General, or any other member authorised by the Authority in this behalf, and all other instruments executed by the Authority shall be authenticated by the signature of an officer of the Authority authorised by it in this behalf.

Clause 33.—This clause relates to contracts by the Authority. It provides that subject to the provisions of clause 34, the Authority shall be competent to enter into and perform any contract necessary for the discharge of its functions under the proposed legislation.

Clause 34.—This clause relates to mode of executing contracts on behalf of the Authority. It provides that every contract shall, on behalf of the Authority, be made by the Director General or such other member, or such officer of the Authority as may be generally or specially empowered in this behalf by the Authority, and such contracts or class of contracts shall be sealed with the common seal of the Authority. However, no contract exceeding such value or amount, as the Central Government may, from time to time, by order, fix in this behalf, shall be made unless it has been previously approved by the Authority. Further, no contract for the acquisition or sale of immovable property or for the lease of any such property for a term exceeding thirty years, and no other contract exceeding such value or amount as the Central Government may, from time to time, by order fix in this behalf, shall be made unless it has been previously approved by the Central Government.

It further provides that subject to the provisions of sub-clause (1), the form and manner in which any contract shall be made under the proposed legislation, shall be such as may be specified by regulations. It also provides that no contract, which is not in accordance with the provisions of the proposed legislation and the regulations made thereunder, shall be binding on the Authority.

Clause 35.—This clause relates to borrowing powers of the Authority. It provides that the Authority may, with the prior consent of the Central Government or in accordance with the terms of any general or special authority given to it by the Central Government, borrow money from any source by the issue of bonds, debentures or such other instruments as it may deem fit for discharging all or any of its functions under the proposed legislation. It further provides that the Central Government may guarantee, in such manner as it thinks fit, the repayment of the principal and the payment of interest thereon with respect to the loans borrowed by the Authority under sub-clause (1). It also provides that subject to such limits as the Central Government may, from time to time lay down, the Authority may borrow temporarily by way of overdraft or otherwise such amount as it may require for discharging its functions under the proposed legislation.

Clause 36.—This clause relates to the power of the Authority to issue directions. It provides that the Authority may, for the discharge of its functions under clause 23 issue such directions from time to time to importers and exporters of plant, animal, plant product or animal product or other object, as it may consider necessary.

Clause 37.—This clause provides for discharge of obligations of the Authority under international agreements. It provides that the Authority shall act as the National Plant Protection Organisation to discharge obligations under the International Plant Protection Convention, and on request by any international, regional or other National Plant Protection Organisation, provide it free of charge or on reciprocal basis, such information as the Authority may have in regard to import and export of, and technical requirements for plants, plant products and other objects. It further provides that the Authority shall act as the National Organisation to discharge obligations under the Office International des Epizooties, and on request by any regional or national organisation, provide it free of charge or on reciprocal basis, such information as it may have in regard to import and export of, and technical requirement for animals, animal products, marine products and other objects. However, before providing any information under this clause, approval of the Central Government shall be obtained. It further explains that, the expression "International Plant Protection Convention" shall mean the International Plant Protection Convention, 1951 of which India is a member and the expression "Office International des Epizooties (OIE)" shall mean the Office International des Epizooties created through an international agreement of which India is a member.

Clause 38.—This clause empowers the Authority to declare biosecurity emergency. It provides that if the Authority is satisfied, on the information received by it that there is likelihood of an outbreak or occurrence in India of an organism, which is not previously known to be established in India and if it becomes established in India, it has the potential to cause significant loss to the biosecurity of the country or an organism, previously thought to be of restricted distribution or abundance in India, which has become so distributed and abundant in India or any part thereof that it has the potential to cause significant loss to the biosecurity or spreading of a pest beyond control by the application of the national pest management strategy for that pest and it is in the public interest that action be taken immediately to manage, or eradicate the organism and such management or eradication is not effectively possible in normal course, the Authority may recommend the Central Government to declare a biosecurity emergency in respect of the whole of India or of such part of the territory thereof as may be specified in the recommendation. It further provides that the Central Government, if it is satisfied, on the recommendation made under sub-clause (1) and after consultation with such persons as it may deem reasonable, that such biosecurity emergency exists, may make declaration to that effect in respect of the whole of India or of such part of the territory thereof as may be specified in the declaration. It also provides that a declaration made under sub-clause (2) may be varied or revoked by subsequent declaration. It also provides that the Central Government shall not issue

a notification varying such proclamation unless the recommendations of the Authority are communicated to it. It also provides that a declaration under sub-clause (2) shall cease to have effect on the expiration of six months unless revoked earlier.

Clause 39.—This clause relates to effect of declaration of biosecurity emergency. It empowers the Central Government to give all such directions to the Authority and require all such acts to be done or not to be done by the Authority as the Central Government may deem necessary for the purpose of managing or eradicating the organism in respect of which such biosecurity emergency is declared, while the declaration of biosecurity emergency is in operation. Further, during operation of the biosecurity emergency, the Authority may take such measures and do all such acts and things which the Authority deems necessary for the purpose of managing or eradicating the organism in respect of which such biosecurity emergency is declared.

Clause 40.—This clause provides for the biosecurity emergency scheme. It provides that the Authority may, with the prior approval of the Central Government, at any time while a declaration of biosecurity emergency under sub-clause (2) of clause 38 is in force, by notification, make a scheme for the management or eradication of the organism in respect of which such emergency has been declared. It further provides that the Central Government may, before giving approval under sub-clause (1), consult such experts as it may deem fit as to the desirability of such scheme.

Clause 41.—This clause provides for appeal as against the order of the Designated Officer. It provides that any person aggrieved by any order of the Designated Officer under the proposed legislation may within a period of thirty days from the date on which the said order is communicated to him, appeal, in such manner and on such payment of fees as may be prescribed, to the Central Government whose decision thereon shall be final. However, the Central Government may entertain an appeal after the expiry of thirty days if it is satisfied that such person was prevented by sufficient cause from filing the appeal in time.

Clause 42.—This clause relates to power of revision of the Central Government. It provides that the Central Government may, at any time, call for and examine the record relating to any case on which the Designated Officer has made an order for the purpose of satisfying itself as to the legality or propriety of such order and make such order as it may deem fit. However, no order under this clause shall be made after the expiry of one year from the date of such decision. Further, the Central Government shall not make any order against any person unless that person has had a reasonable opportunity of showing cause against the proposed order.

Clause 43.—This clause relates to request for re-analysis of sample. It provides that any person aggrieved by a report of analysis of sample made under the proposed legislation or the rules and regulations made thereunder, may request the Designated Officer for re-analysis by a different laboratory of the Authority, or an accredited laboratory, whose report shall be final.

Clause 44.—This clause provides for procedure for sale of goods and application of sale proceeds. It provides that where any plant, animal, plant product or animal product or other object not confiscated is required to be sold for the realisation of the dues of the Authority, or otherwise under the proposed legislation, after ensuring that it does not pose biosecurity risk to the country, under the proposed legislation, the Authority shall, after the notice to the owner thereof, sell by public auction or by tender or with the consent of the owner in any other manner such plant, animal, plant product or animal product or other object. It further provides that the proceeds of any such sale referred to in sub-clause (1) shall be applied, firstly to the payment of the expenses of the sale, next to the payment of the dues of the Authority in respect to the plant, animal, plant product or animal product or other object sold, next to the payment of the charges, if any, payable in respect of the plant, animal, plant product or animal product or other object sold, due to the person having the custody of such plant, animal, plant product or animal product or other object and

next to the payment of any amount due from the owner of the plant, animal, their product, or other object sold, to the Central Government, if any such intimation has been received by the Authority, and the balance, if any, remains after such payment, shall be paid to the said owner.

Clause 45.—This clause empowers the Central Government, after due appropriation made by Parliament by law in this behalf, to make to the Authority grants and loans of such sums of money as the Central Government may think fit for being utilised for the purposes of the proposed legislation.

Clause 46.—This clause relates constitution of Agricultural Biosecurity Fund. It provides that a Fund to be called the Agricultural Biosecurity Fund shall be constituted and there shall be credited thereto all grants and loans made by the Central Government under clause 45, all grants, fees, penalties and charges received by the Authority under the proposed legislation and all sums received by the Authority from such other source as may be approved by the Central Government. It further provides that the Agricultural Biosecurity Fund shall be applied for meeting the expenditures specified in sub-clauses (a) to (d) therein. It also provides that the Agricultural Biosecurity Fund shall also be applied for the purpose of expanding existing facilities or services, or creating new facilities or services, or for the purpose of providing against any temporary decrease of revenue or increase of expenditures from transient causes or for purposes of replacement or for meeting expenditures arising from loss or damage from incidence of pest infestation or infection, or for meeting any liability arising out of any act or commission in the discharge of its functions under the proposed legislation. It also provides that all moneys belonging to the fund shall be deposited in such banks or invested in such manner as may, subject to the approval of Central Government, be decided by the Authority.

Clause 47.—This clause relates to accounts and audit of the Authority. It provides for maintenance of proper accounts and other relevant records, and for preparation of an annual statement of accounts including profit and loss account and balance sheet in such form as may be prescribed by the Central Government in consultation with the Comptroller and Auditor-General of India. It further provides that the accounts of the Authority shall be audited annually by the Comptroller and Auditor-General of India and any expenditure incurred by him in connection with such audit shall be payable by the Authority to the Comptroller and Auditor-General of India. It also provides that the Comptroller and Auditor-General of India, and any person appointed by him in connection with the audit of the accounts of the Authority, shall have the same rights, privileges and authority in connection with such audit as the Comptroller and Auditor-General of India has in connection with the audit of Government accounts and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers, and inspect any place under, or any office of, the Authority. It also provides that the accounts of the Authority as certified by the Comptroller and Auditor-General of India, or any other person appointed by him in this behalf, together with the audit report thereon, shall be forwarded annually to the Central Government, and that Government shall cause the same to be laid before both Houses of Parliament.

Clause 48.—This clause provides for preparation of an annual report by the Authority every year giving a summary of its activities including information relating to proceedings and policies during the previous year, in the form prescribed and forwarding a copy of the report to the Central Government. It further provides that the Central Government shall cause the report to be laid, as soon as after it is received, before each House of Parliament.

Clause 49.—This clause relates to application of law relating to customs and powers of customs officers. It provides that the law for the time being in force relating to the customs and goods, the import of which is prohibited under the Customs Act, 1962 or any other law for the time being in force shall, subject to the provisions of

clause 3 of the proposed legislation, apply in respect of pests or plants or animals, the import of which requires permit and certificate by the Authority under the said clauses, or prohibited by the Authority and officers of customs and officers empowered under the Customs Act, 1962 or any other law for the time being in force, to perform the duties imposed thereby on a Commissioner of Customs and other officers of Customs, shall have the same powers in respect of such pests or plants or animals as they have for the time being in respect of such goods as aforesaid. It further provides that without prejudice to the provisions of sub-clause (1), the Commissioner of Customs or any officer of the Government authorised by the Central Government in this behalf, may detain any imported package which he suspects to contain any pests or plants or animals and the import of which requires the permit and certificate under clause 3, or prohibited by the Authority and shall forthwith report such detention to the Authority, and, if necessary, forward, with the approval of the Authority, the package or sample of any suspected pests or plants or animals and its products found therein to the laboratory notified or research institution accredited under the proposed legislation.

Clause 50.—This clause relates to release of imported products. It provides that no plant, animal or plant product or animal product or other object imported into India shall be released unless the importer has produced to the Designated Officer all permits, certificates and other documentation as may be required under the provisions of the proposed legislation, or rules and regulations made thereunder and unless such plant, animal, plant product or animal product or other object is, or has been, presented to and cleared by the Designated Officer in accordance with the provisions of the proposed legislation, or rules and regulations made thereunder.

Clause 51.—This clause relates to revocation or suspension of permit or certificate. It provides that if the Designated Officer is satisfied, either on a reference made to him in this regard or otherwise, that the import permit or the sanitary or phytosanitary certificate has been granted by misrepresentation of an essential fact or the holder of such import permit or sanitary or phytosanitary certificate has failed to comply with the conditions subject to which such import permit or sanitary or phytosanitary certificate was granted, or has contravened any of the provisions of the proposed legislation, or rules and regulations made thereunder, then, without prejudice to any other penalty to which the holder of such permit or certificate, as the case may be, is liable under the proposed legislation, the Designated Officer may, after giving the holder of such permit or certificate, an opportunity of showing cause, revoke or suspend such permit or certificate. It further provides that subject to any regulations that may be made in this behalf, the Designated Officer may also vary or amend such permit or certificate granted under clause 3 or clause 4.

Clause 52.—This clause relates to removal of imports. It provides that where the Designated Officer has reasons to believe that any plant, animal and plant product or animal product or other object imported into India was imported in contravention of the provisions of the proposed legislation, or rules and regulations made thereunder or contains a quarantine pest, then, the Designated Officer may, give a notice by registered post or through electronic media or by any other verifiable means to the owner of such plant, animal, plant product or animal product or other object, or to the person having the possession, care or control of it, requiring him within a period not exceeding thirty days to remove it from India. It further provides that where the owner or the person referred to in sub-clause (1) fails to remove such plant, animal, plant product or animal product or other object within such time as may be allowed for the purpose, the Designated Officer may seize it, cause it removed and destroyed at the cost of such owner or person. It also provides that the costs of such seizure, removal or destruction shall be recoverable from such owner or person in the manner provided by the Code of Criminal procedure, 1973, for the recovery of fines imposed by a Court, as if such costs were fine imposed by the Court.

Clause 53.—This clause relates to appointment of Designated Officers. It provides that the Authority shall, by notification, designate from amongst the officers of the Authority, such Designated Officers as it may deem fit, to perform functions and exercise powers under the proposed legislation or rules and regulations made thereunder for such areas, as may be specified in the notification. It further provides that the Authority may, without prejudice to the provisions contained in sub-clause (1), appoint by notification as the case may be, with the prior approval of the Central Government or State Government or research institutes or any other public institution, without prejudice to the provisions contained in sub-clause (1), such technically qualified persons subject to such conditions as it deems fit, from amongst the officers or employees working under such Governments or institutions to act as Designated Officers to perform functions and exercise powers under the proposed legislation, or rules and regulations made thereunder for such areas, as may be specified in the notification. It also provides that Designated Officers, who deal with export certification, shall be deemed as public officers for meeting the requirements of international agreements and conventions for the purposes of such certification.

Clause 54.—This clause relates to powers of Designated Officers. It provides that Designated Officer shall have the power to inspect, examine and take samples of any plant, animal, plant product or animal product or other object, for analysis or test. It further provides that if the Designated Officer has reason to believe that violation of the proposed legislation, or rules and regulations made thereunder, has been or is being or is likely to be committed, or for the purpose of satisfying himself as to whether the provisions of the proposed legislation or rules and regulations made thereunder, or the conditions of any import permit or sanitary or phytosanitary certificate are being complied with, then he may act upon as envisaged in sub-clauses (a) to (e) of this clause. It also provides that the provisions of the Code of Criminal Procedure, 1973, or, in relation to the State of Jammu and Kashmir, any area in which that Code is not in force, the provisions of any corresponding law in force in that State or area, shall, so far as may be, apply to any search or seizure under this clause as they apply to any search or seizure made under the authority of a warrant issued under section 94 of the said Code or, as the case may be, under the corresponding provisions of the said law.

Clause 55.—This clause provides for duties of Designated Officers. It provides that where a Designated Officer has reasons to believe that a quarantine pest is, or could be, present in an area, he may prohibit the owners or occupiers of any land or building in that area or any other person having the possession, care or control of plants, animals and plant products or animal products or other objects in that area from moving them without the written authorisation of such Designated Officer. It further provides for the manner and procedure for communication and service of the notice of the Designated Officer upon the owners or occupiers of any land or building in the area specified in sub-clause (1), ordering each of them, within a period to be indicated in such notice, to perform such treatment and carryout such measures, including the total destruction, of any plant, plant product, animal or animal product or other thing, whether or not infested or infected with the quarantine pest, as such Designated Officer may deem necessary for the eradication, containment or prevention of the spread of such quarantine pest.

Clause 56.—This clause relates to procedures for sampling and analysis. It provides that the procedures for sampling, testing and analysing plants, animals, plant products or animal products and other objects, shall be such as may be specified by regulations made in this behalf.

Clause 57.—This clause provides that every agency of the Central Government and the State Governments shall render such help and assistance and furnish such information to the Designated Officer or a person or an agency authorised by him in writing, as he may require for the discharge of his functions under the proposed legislation, rules and regulations made thereunder.

Clause 58.—This clause relates to certain cases where compensation need not be paid. It provides that notwithstanding anything contained in any law for the time being in force, no compensation shall be payable for any action taken by the Designated Officer in good faith under the proposed legislation and the rules and regulations made thereunder in respect of a plant, animal, plant product or animal product or other object that is imported into India or exported from India in contravention of the proposed legislation, or the rules and regulations made thereunder or such plant, animal, plant product, animal product or other object that is found to be infested or infected with a quarantine pest when it is inspected on importation or before exportation or in respect of the prohibition or restriction of the sale or movement of any plant, animal, plant product or animal product or other object where such sale or movement is prohibited or restricted as a result of the suspension or revocation of, or the refusal to grant, an import permit or a sanitary or phytosanitary certificate that is required under the proposed legislation, or the rules and regulations made thereunder. However, the authority may award a reasonable compensation to a person for any loss or damage incurred to him in respect of non infested or non infected plant, animal, plant product or animal products or any other objects, land or premises, in the course of, or as a result of the implementation of, any sanitary or phytosanitary measure.

Clause 59.—This clause provides for penalty for contraventions for which no specific penalty is provided. It provides that whoever contravenes any provision of the proposed legislation or the rules or regulations made thereunder, for the contravention of which no penalty has been separately provided in this Chapter, shall be liable to a penalty which may extend to two lakh rupees.

Clause 60.—This clause relates to punishment for interfering with seized items. It provides that if a person without the permission of the Designated Officer, retains, removes or tampers with any material or other thing that has been seized under the proposed legislation, he shall be punishable with imprisonment for a term which may extend to six months and also with fine which may extend to two lakh rupees.

Clause 61.—This clause relates to punishment for false information. It provides that if a person, in connection with a requirement or direction under the proposed legislation, provides any information or produces any document that the person knows is false or misleading, he shall be punishable with imprisonment for a term which may extend to three months and also with fine which may extend to two lakh rupees.

Clause 62.—This clause relates to punishment for obstructing or impersonating a Designated Officer. It provides that if a person without reasonable excuse, resists, obstructs, or attempts to obstruct, impersonate, threaten, intimidate or assault a Designated Officer in exercising his functions under the proposed legislation, he shall be punishable with imprisonment for a term which may extend to three months and also with fine which may extend to one lakh rupees.

Clause 63.—This clause relates to penalty for contravention in relation to imports and exports. It provides that whoever, in contravention of the provisions of clauses 3 and 4, imports or exports any plant, animal or animal product or plant product or any other product, he shall be punishable with imprisonment which may extend to two years and shall also be punishable with fine which may extend to two lakh rupees.

Clause 64.—This clause relates to punishment for subsequent offences. It provides that if any person, after having been previously convicted of an offence punishable under the proposed legislation subsequently commits and is convicted of the same offence, he shall be liable to twice the punishment, which might have been imposed on a first conviction, subject to the punishment being maximum provided for the same offence and a further fine on daily basis which may extend up to one lakh rupees, where the offence is a continuing one. It further provides that the court may also cause the offender's name and place of residence, the offence and the penalty

imposed to be published at the offender's expense in such newspapers or in such other manner as the court may direct and the expenses of such publication shall be deemed to be part of the cost attending the conviction and shall be recoverable in the same manner as a fine.

Clause 65.—This clause relates to offences by companies. It provides that where an offence under the proposed legislation has been committed by a company, every person who at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly. However, nothing contained in this sub-clause shall render any such person liable to any punishment if he proves that the offence was committed without his knowledge or that he had exercised all diligence to prevent the commission of such offence. It further provides that notwithstanding anything contained in sub-clause (1), where an offence under the proposed legislation has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or that the commission of the offence is attributable to any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly. Further clause the expressions "company" and "director" have been explained therein.

Clause 66.—This clause relates to cognizance and trial of offences. It provides that no court shall take cognizance of an offence punishable under the proposed legislation, except upon the complaint in writing made by the Authority or by any officer of the Authority duly authorised by the Authority for this purpose. It further provides that no court inferior to that of a Metropolitan Magistrate or a Judicial Magistrate of the first class, shall try any offence punishable under the proposed legislation.

Clause 67.—This clause provides for recovery of a penalty imposed under the proposed legislation, or any dues of the Authority under the proposed legislation, if it is not paid, as an arrear of land revenue.

Clause 68.—This clause relates to directions of the Central Government to the Authority. It provides that without prejudice to the foregoing provisions of this Bill, the Authority shall, in exercise of its powers and in performance of its functions under the proposed legislation, be bound by such directions on questions of policy other than those relating to technical and administrative matters, as the Central Government may give in writing to it from time to time. However, the Authority shall, as far as practicable, be given opportunity to express its views before any direction is given under sub-clause (1). It further provides that if any dispute arises between the Central Government and the Authority as to whether the question is or is not of policy, the decision of the Central Government thereon shall be final. It also provides that the Authority shall furnish to the Central Government such returns or other information, with respect to its activities, as the Central Government may, from time to time require.

Clause 69.—This clause relates to the power of the Central Government to prohibit import of pests or plants or animals and its products in public interest. It provides that without prejudice to any other provision contained in this Chapter, if the Central Government is satisfied that the use of any pests or plants or animals and or its products is likely to involve any risk to human beings or animals or that in the public interest it is necessary or expedient so to do them, that Government may, by notification in the Official Gazette, prohibit the import of such pests or plants or animals and or its products.

Clause 70.—This clause empowers the Central Government to supersede the Authority by notification for such period, not exceeding six months, as may be specified in the notification. However, before issuing a notification under this sub-clause for the reasons mentioned in item (b), the Central Government shall give a

reasonable opportunity to the Authority to show cause why it should not be superseded and shall consider the explanations and objections, if any, of the Authority. It further provides that upon the publication of a notification under sub-clause (1) superseding the Authority, all the members shall, as from the date of supersession, vacate their offices as such and all the powers, functions and duties which may, by or under the provisions of the proposed legislation, be exercised or discharged by or on behalf of the Authority, shall until the Authority is re-constituted under sub-clause (3), be exercised and discharged by such person or persons as the Central Government may direct. Further, all property owned or controlled by the Authority shall, until the Authority is re-constituted under sub-clause (3), vest in the Central Government. It also empowers the Central Government, on the expiration of the period of supersession specified in the notification issued under sub-clause (1), to extend the period of supersession for such further term not exceeding six months, as it may consider necessary or re-constitute the Authority by fresh appointment and in such case the members who vacated their offices under item (a) of sub-clause (2) shall not be deemed to be disqualified for appointment. However, the Central Government may, at any time, before the expiration of the period of supersession, whether as originally specified under sub-clause (1) or as extended under sub-clause (3), take action under item (b) of sub-clause (1). It also provides that the Central Government shall cause a notification issued under sub-clause (1) and a full report of any action taken under this clause and the circumstances leading to such action to be laid before both Houses of Parliament at the earliest opportunity.

Clause 71.—This clause provides that the provisions of the proposed legislation shall have effect in addition to, and not in derogation of, any other law for the time being in force.

Clause 72.—This clause empowers the Central Government to obtain reports and returns from the Authority in respect of its activities, from time to time.

Clause 73.—This clause provides that the members, officers and other employees of the Authority are deemed to be public servants within the meaning of section 21 of the Indian Penal Code, when acting or purporting to act in pursuance of the proposed legislation or the rules and regulations, made thereunder.

Clause 74.—This clause provides for protection to the Government, or the Authority, or any member of the Authority, or officers or other employees of the Central Government or Authority against any suit, prosecution or other legal proceedings, for anything which is in good faith done or intended to be done under the proposed legislation, or the rules and regulations made thereunder.

Clause 75.—This clause provides for bar of jurisdiction of civil courts in respect of any matter which the Authority or Central Government is empowered by or under the proposed legislation to determine and also bars the civil courts from grant of any injunction in respect of any action taken or to be taken by the Authority and Central Government in pursuance of any power conferred by or under the proposed legislation.

Clause 76.—This clause empowers the Central Government to make rules, by notification, in respect of the matters enumerated in items (a) to (k) of sub-clause (2) of this clause.

Clause 77.—This clause empowers the Authority to make regulations with the previous sanction of the Central Government, by notification in the Official Gazette, not inconsistent with and to provide for all matters necessary to give effect to the provisions of the proposed legislation or rules made thereunder. It further provides that without prejudice to the generality of the foregoing, such regulations may provide for all or any of the matters specified in items (a) to (k) of sub-clause (2) of this clause.

Clause 78.—This clause provides for laying of rules and regulations made under the proposed legislation before each House of Parliament.

Clause 79.—This clause empowers the Central Government to make provision by order published in the Official Gazette, to remove difficulties which may arise in

giving effect to the provisions of the proposed legislation. However, such order shall not be made after expiry of two years from the commencement of the proposed legislation. It further provides for laying of such order before each House of Parliament.

Clause 80.—This clause provides for repeal of the Destructive Insects and Pests Act, 1914 and the Livestock Importation Act, 1898. However, such repeal shall not affect the previous operation of the said enactments as specified in the proviso to the said clause. It further provides that any notification, order or notice issued, or declaration made, or permit or certificate granted, or any other thing done, or any other action taken under the repealed enactments, and in force immediately before the commencement of the proposed legislation shall, be deemed to have been issued, made, granted, done or taken under the corresponding provisions of the proposed legislation and all the rules made under the said repealed Acts shall continue to have effect until such rules are rescinded or amended, as the case may be. It also provides for applicability of section 6 of the General Clauses Act, 1897 with regard to the effect of repeal.

FINANCIAL MEMORANDUM

Clause 7 of the Bill provides that the Central Government shall constitute an Authority to be called the Agricultural Biosecurity Authority of India and the Head Office of the Authority shall be at Faridabad. The Authority will exercise powers, conferred on and perform functions assigned to it under the proposed legislation. Clause 8 of the Bill provides that the Central Government shall appoint a Director General, two Deputy Director Generals and two members other than *ex officio* Members. Sub-clause (1) of clause 11 provides that the conditions of service, fee and allowances payable to Director General, Deputy Director General and the other members (other than *ex officio* Member shall be such as may be prescribed under the rules).

2. Clause 16 of the Bill provides that the Authority may appoint officers and employees for efficient performance of its functions and the scale of pay, allowances and other conditions of service will be such as may be provided by the Authority by regulations.

3. Clause 22 of the Bill provides for transfer of existing employees of the Directorate of Plant Protection and Quarantine Storage and Animal Quarantine Stations under the Central Government to the Authority. Sub clause (3) provides that the existing employees shall be given an option to express their willingness or otherwise to become employees of the Authority. The expenditure related to the employees so transferred to the Authority shall be met with the existing budgetary allocation.

4. Clause 45 of the Bill provides that the Central Government after the appropriations made by Parliament, may make to the Authority grants and loans for utilisation for the purposes of the proposed legislation. Clause 46 of the Bill provides for constitution of the Agricultural Biosecurity Fund to which all grants, loans, fees, penalties and charges received by the authorities shall be credited.

5. It is estimated that there would be an expenditure of 726 crores of rupees on the establishment of the Agricultural Biosecurity Authority, to be borne by the Central Government, this would include non-recurring capital expenditure of 506 crores of rupees on equipment, land and building and a further recurring expenditure of 220 crores of rupees towards salaries and allowances, establishment, etc.

6. The Bill if enacted and brought into operation would involve expenditure from the Consolidated Fund of India as mentioned above and is not likely to involve any other recurring or non-recurring expenditure.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Sub-clause (1) of clause 76 of the Bill empowers the Central Government to make rules, by notification in the Official Gazette, to carry out the provisions of the proposed legislation. Sub-clause (2) of the said clause enumerates the matters in respect of which such rules may be made under the proposed legislation. The matters, *inter alia*, relate to (a) experience of the years under clause 9; (b) such powers and functions of the Authority which may be exercised and discharged by the Director General under clause 10; (c) the term of office and condition of service of the Director General and the other members other than *ex officio* members under clause 11; (d) powers and duties of secretary under sub-clause (1) of clause 15; (e) control and restrictions subject to which the Authority may appoint other officers under clause 16; (f) the form in which the option of willingness or otherwise to become employees of the Authority under sub-clause (3) of clause 22; (g) other activities to be undertaken by Authority under clause (v) of clause 23; (h) manner and fee for appeal under clause 41; (i) form in which Authority shall maintain proper accounts and other relevant records, and prepare an annual statement of accounts including profit and loss account and balance sheet under sub-clause (1) of clause 47; (j) form and time in which the Authority shall prepare an annual report under sub-clause (1) of clause 47; (k) any other matter which is to be or may be prescribed under the proposed legislation.

2. Sub-clause (2) of clause 77 of the proposed legislation empowers the Agricultural Bio-security Authority of India to make, in consultation with the Central Government and by notification in the Official Gazette, regulations, consistent with the provisions of the proposed legislation and the rules made thereunder, to carry out the provisions of the proposed legislation. Sub-clause (2) of the said clause enumerates the matters in respect of which such regulations may be made under the proposed legislation. The matters, *inter alia*, relate to (a) the form, manner, fee, conditions and exemptions of the import permit under clause (i) of clause 3; (b) the authority of the country of origin or country of re-export which shall issue the sanitary of the country of origin or country of re-export which shall issue the sanitary and phytosanitary certificate under clause (ii) of clause 3; (c) the manner in which and the fee on payment of which the Designated Officer shall issue the sanitary and phytosanitary certificate under clause 4; (d) times and places of meetings, and procedures in regard to the transaction of business at the meetings, including the quorum of the Authority under sub-clause (1) of clause 12; (e) the method of appointment, the scale of pay and allowances and other conditions of service of other officers and employees of the Authority under clause 16; (f) the manner in which the experts and professionals may be engaged by the Authority and their remuneration or fee under clause 18; (g) post entry quarantine measures which may be implemented by the Authority and the research institutes with which the Authority jointly implement it under clause (f) of clause 23; (h) fee to be charged for services under sub-clause (w) of clause 23; (i) the form and manner in which any contract shall be made under sub-clause (2) of clause 34; (j) procedures for sampling, testing and analysing plants, animals, plant product or animal products and other objects under clause 56; (k) generally for the efficient conduct of the affairs of the Authority.

3. Clause 78 of the proposed legislation provides that the rules and regulations made under the proposed legislation are required to be laid before each House of Parliament.

4. The matters in respect of which rules and regulations may be made are matters of procedure or administrative details and it is not practicable to provide for them in the proposed legislation itself. The delegation of legislative powers is, therefore, of a normal character.

T.K. VISWANATHAN,
Secretary-General.